policy REVIEW

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Law, Government, and Secrecy

Shirley Robin Letwin Guenter Lewy

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Richard B. McKenzie

Hunger in America Revisited

James Bovard

Should America Defend the Persian Gulf?

Samuel T. Cohen

Misreporting Nuclear Power

Bernard Cohen

Educational Disinvestment

Warren C. Robinson

Thatcherissima

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policy REVIEW

Number 26

Controversy		2
Law without Law	*Shirley Robin Letwin*	7
Can Democracy Keep Secrets?	*Guenter Lewy*	17
Thatcherissima	*Ronald Butt, Ralph Harris, Victoria Sackett*	30
Feeding Everybody	*James Bovard*	42
How Not to Cut Crime	*Ernest van den Haag*	53
Educational Disinvestment	*Warren C. Robinson*	59
The Naturalist Fallacy	*Judith Chettle*	66
Nuclear Journalism	*Bernard Cohen*	70
NIP in the Air	*Richard B. McKenzie*	75
Against the Grain	*Samuel T. Cohen*	88
Tales from the Public Sector	*Antonio Martino*	93
Reviews	*Michael Levin, Stephen Haseler, Dennis J. O'Keeffe, Russell Kirk, Spencer Warren*	94
Soothsaying	*David Ranson*	111

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Controversy

A Funding Problem

Dear Sir:

Brian Griffiths's article ("Banking on Crisis," in the Summer 1983 *Policy Review,* 25) raises a number of issues and provides four main recommendations. Neither time nor space will permit a comprehensive commentary on the entire article. I would, however, like to respond to Mr. Griffiths's recommendation that no additional resources be provided for the International Monetary Fund (IMF), and put it in the context of our overall strategy for dealing with the international debt situation.

It is important to consider why it is so important to increase IMF resources. The answer lies in the importance to the U.S. economy of a sound world economy and financial system and in the central role of the IMF in resolving current economic problems.

The major strains in the international financial system that emerged in 1982 had their roots in the rising inflationary pressures in the late 1960s, the twin oil shocks of the 1970s, and policy responses that attempted to avoid adjustment to economic realities. Many governments sought to maintain real income and employment in uncompetitive industries by subsidies, rather than pursue policies to counter inflationary pressures and reallocate resources to reflect new competitive conditions. The results of these policies were higher inflation, slower real economic growth, and large balance-of-payments deficits and external financing requirements.

The bulk of the external financing was provided through private markets—largely commercial banks—and was heavily concentrated on the developing countries. During 1982, however, financial markets began to recognize that the inflationary environment of the 1970s was changing and that inflation expectations were undergoing a dramatic shift. Therefore, levels of debt, which had previously been considered manageable, came to be viewed as high in real terms and large in the face of weak export prices and slow world economic growth. It would be wrong to hold the banks accountable for failing to foresee the full extent and significance of these developments but also wrong to protect them from the consequences of their lending decisions. In this context, the administration has been examining what banks—and bank regulators—should do to improve on their practices and procedures. We favor constructive and evolutionary changes in those practices and regulations.

The nature of these difficulties has been known for some time. In addressing the annual meeting of the World Bank and the IMF two years ago, I said, "The United States is deeply aware of the wrenching difficulties facing many of the countries . . . and we are conscious of our responsibilities for shaping and supporting the efforts of the fund and the World Bank."

But with our country just beginning to come out of a serious recession, there is a natural tendency to feel these are "other nations' problems." It is tempting to conclude: The countries with the big debts and the banks got themselves into this mess; let them get themselves out.

For the sake of discussion, let us ask what would happen if the United States did, in fact, adopt a "hands-off" attitude toward the international debt problems.

This year, if lenders were to pull back further in the absence of any interest or action on the part of the major industrial countries, new lending would virtually dry up. It has already contracted considerably. Trade would, consequently, have to be reduced to match the new lower level of external financing. For the United States, growth would be about one percentage point less than we're expecting, and our trade deficit would grow very rapidly due to the loss of $12 billion or so in exports to the developing world. Lost jobs in vital export sectors would compound our recovery efforts.

And what if the debtor nations cannot service their debts? If interest payments to U.S. banks are more than 90 days late, the banks stop accruing them on their books; they suffer reduced profits and bear the costs of continued funding of the loan. Provisions may have to be made for loss, and as loans are actually written off, the capital of the bank is reduced. In that case the capital-asset ratios of the creditors' banks would shrink. American banks would then have to take measures to restore their capital-asset ratios. Banks would be forced to make fewer loans to all borrowers, domestic and foreign. Auto loans in Cincinnati, housing loans in Dallas, capital expansion loans in California—all would be affected.

And this phenomenon wouldn't be limited to us. Banks in Europe, Japan, and elsewhere would be forced to curtail their domestic lending. The goal here is to assure that those nations with large external debts adjust without resort to draconian measures that would create chaos for them and financial instability for everyone else.

Helping nations make that essential adjustment is part of the IMF's role. The IMF was founded to promote a sound financial framework for the world economy and is at the center of international efforts to deal with current economic and financial problems. The resources of the IMF are available to provide temporary balance-of-payments financing in support of members' efforts to restore their external positions to a sustainable basis. The economic policy conditions associated with use of IMF resources are designed to ensure that a country establishes the

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basis for a sustainable external payments position.

The reemergence of large balance-of-payments financing needs and growing debt problems has led to a sharp resurgence in requests for IMF financing, and it is clear that the IMF's liquidity position will be under serious strain in the near future. That's why the member nations of the IMF have agreed there is an urgent need to increase its resources.

It is essential that the debtor nations undergo a period of economic adjustment. But the soundness and prosperity of each of the national economies is inextricably linked, and there is a limit in both economic and political terms as to how rapidly that adjustment can take place. It isn't possible to get growth at home unless we have a sound world economy. We are supporting a system of interim funding during the transition period in which debtor nations move away from a "borrowing binge" and onto a firm foundation of sound economic policy and stable growth. That is a difficult but unavoidable process.

In addition to the role of the IMF, the administration's debt strategy comprises the following elements: first, effective adjustment in borrowing countries. In other words, they must take steps to get their economies back on a stable course and to make sure that imports do not grow faster than their ability to pay for them. The need for such corrective policies is recognized and being acted on by major borrowers—with the support and assistance of the IMF.

Because it takes time for borrowers to design and negotiate lending programs with the IMF and to develop financing arrangements with other creditors, the IMF cannot be our only buffer in financial emergencies.

Thus, another element in our strategy is the willingness of governments and central banks in lending countries to act quickly, if necessary, to respond to debt emergencies. This kind of short-term support is designed to last only a year at most and normally much less. It cannot substitute for IMF resources, which are designed to help countries through a multiyear adjustment process.

IMF resources themselves have only a transitional and supporting role. Bank lending has historically been the largest single source of international financing. While a sizable increase in IMF resources is essential, this increase is not a substitute for lending by commercial banks. Accordingly, resolving debt problems requires continued commercial bank lending to countries that are pursuing sound adjustment programs.

Finally, we need to ensure sustained economic growth and the preservation and strengthening of the free-trade system. Without these, debtor nations will not have the export markets they need to service their external debts.

It is crucially important to the debtor nations and to our economic interests—to U.S. economic activity, jobs, production, and investment—that these problems be dealt with in a constructive and orderly way. The IMF is a central element of the overall solution.

Donald T. Regan
Secretary of the Treasury
Washington, D.C.

Brian Griffiths replies:

There is much in the Secretary of the Treasury's response to my article with which I agree. I applaud the secretary's concern for the sustained economic growth of the world economy as well as his desire to strengthen the free-trading system, which is an important condition to achieving that end. I am also in strong agreement with his analysis of the cause of our current economic problem, and I would not disagree in the slightest with his claim that the IMF has a central role to play in resolving our difficulties.

The point at which I part company with him, however, is his contention that the resolution of our present problems requires a substantial and *permanent* increase in the resources of the IMF. To start with, it is incorrect to describe my own recommendations as a hands-off attitude toward the international debt problem. Quite the opposite. If commercial banks are to continue lending to debtor countries, it is important that these countries agree to conditionality imposed by the IMF. But this means active involvement by the fund in the current situation. Similarly, if the U.S. banking system is not to suffer a liquidity crisis, as occurred in the late twenties and early thirties, it is also important that the Federal Reserve maintain a growing cash base to the banking system, which again involves active participation by the Fed in the domestic money and capital markets. In addition, if large or medium-sized banks were to fail, the Fed might well play an important role in expediting the process of merger or take-over. All of these are a hands-on approach to dealing with the problem.

Next, I believe that the secretary exaggerates the consequences of what might happen if IMF resources were not to be increased. In particular, it is quite wrong to suggest that auto loans in Cincinnati, housing loans in Dallas, and capital extension loans in California would be severely cut back if the IMF were not given more resources. If the Federal Reserve were to ensure that the U.S. banking system was provided with adequate cash, and if the auto business in Cincinnati, the housing market in Dallas, and general business in California were all profitable and therefore able to service their loans, there is no reason whatever why U.S. banks should not provide them extra loans. Certain large individual banks that have lent heavily to Brazil and Mexico may be forced to cut back on future lending and so be in no position to meet these new demands, but there are thousands of other banks that would relish the opportunity to do such business. If the banks did not have sufficient capital to justify expansion, they would simply raise more capital in the marketplace. To suggest, as the secretary does, that certain regions of the country would suffer is to deny the basic value of the market economy.

The fundamental objection, however, to an increased quota for the IMF as a way of resolving the present debt problems is that it is an inflationary solution. If the IMF's resources are increased, it is certain that they will be drawn on, and by a multiple of the amount by which they will be increased. As a result, world liquidity will be increased and with it world inflation. But higher inflation will also result in higher world interest rates and in

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developed countries' being forced yet again into taking counterinflationary measures. But both of these things are contrary to the medium-term interests of debtor countries. I am not at all opposed to giving the IMF increased resources on a temporary basis to deal with the temporary balance of payments difficulties of debtor countries. But in my judgment, to increase the fund's resources on a *permanent* basis to deal with a *temporary* problem is to vote decisively for world inflation and against the permanent interests of Third World debtor countries.

Professor Brian Griffiths, Dean
City University Business School
London

Defending Natural Rights

Dear Sir:

In his article attacking the natural rights stance ("Against Natural Rights," Winter 1983), Ernest van den Haag argues the following basic thesis: Various necessary conditions may be required for human existence and excellence but it does not follow that from knowing these it is possible to infer norms of human conduct. This, basically, restates David Hume's Is/Ought gap thesis.

Professor van den Haag also says that naturalism is undesirable for purposes of forging and sustaining a free society or legal system. Negative freedom, Professor van den Haag thinks, is jeopardized when tied to this position. This is to restate Karl Popper's theme, in his *Open Society and its Enemies* (Princeton, 1953), namely, that Plato, Hegel, and Marx were all naturalists and all advocated wholistic/totalist/authoritarian moral-political systems. While this alone does not prove natural law/rights views wrong, it is, Professor van den Haag believes, suggestive. Finally, Professor van den Haag also discusses the difficulties concerning the sort of ethical/political doctrine we may expect from a utilitarian (or consequentialist) approach. Here, following a prudent strategy of not denying the troublesome aspects of the view he himself favors, Professor van den Haag wishes to preempt the sort of criticism of the positivist/utilitarian ethical/political stance that has moved John Rawls and Robert Nozick, among others, toward the rejection of utilitarianism: The pursuit of the greatest happiness of the greatest number (or the general welfare of Pareto optimality) *may* lead to policies in law and politics that seem on its face morally intolerable—solving the population problem by means of random killing, giving important and widely admired people organs from the bodies of those no one cares about, etc.; utilitarianism *seems* to be callous to the point that no theory can hope to justify its callousness. Professor van den Haag suggests that these results are unjustified. The position won't generate them when carefully understood.

Two major points must be made, briefly, in reply to Professor van den Haag. First, the Is/Ought gap troubles morality only if we accept a questionable theory of being and of knowing something. Empiricism begs the question of what there can be—to wit, it holds that only beings that are capable of being sensed could be ascertained to exist. This rules out any type of existence that could involve characteristics we associate with values and morality. Since the empiricist view is open to serious doubt and there is reason to believe that a more pluralistic ontology would be more sound—based on common sense and its integration into a logically coherent order of existence—the Is/Ought gap suggested by empiricism need not be accepted as binding on a serious effort to inquire into the issue of values. In my own works I suggest more specific objections to such empiricist skeptical arguments pertaining to the possibility of moral knowledge as Moore's "open question" argument. (See my *Human Rights and Human Liberties* and *The Pseudo-Science of B.F. Skinner.*)

The view that natural law (i.e., objective morality) poses a threat to human ("negative") liberty follows only from an *intrinsicist* conception of values and moral goodness, namely, that it is by virtue of certain *innate* properties that some items in nature are good. They command unconditional support from those capable of seeing their goodness. The stress is on an enforceable, obligatory command. Thus someone should coerce another's goodness!

The Neo-Aristotelian naturalist view however does not ignore the relational element of choice involved between human individuals and the values appropriate for them to pursue. If "ought implies can," as it must, the intrinsicist view stumbles very badly. Having made someone behave so that this behavior promotes some goal has not succeeded in producing moral value, since the latter is dependent on choosing the appropriate behavior, that is, on *acting* rightly.

Next, let me turn to Professor van den Haag's discussion of antinomies. If a moral/political/legal framework cannot guide us in this task, that framework is seriously flawed.

Sadly, Professor van den Haag has accepted the conception of the naturalist position represented by such advocates of various moral, political, and legal views as John Rawls, Ronald Dworkin, Charles Fried, and Alan Gewirth. None of these, except perhaps Fried, is especially concerned to argue that negative liberty is the standard of justice in human community life. Natural law/rights theorists such as Eric Mack, Fred D. Miller, Jr., Murray N. Rothbard, Ayn Rand, and I would maintain just that, however.

Rawls does not argue his case for his moral and political framework by reference to the nature of human beings—instead he is a contractarian-intuitionist. Dworkin, too, eschews the naturalist type argument for his so-called individual rights, resting them, instead, on intuitions. Gewirth is a Kantian rationalist and he explicitly rejects the term "natural rights." (I am not familiar enough with Fried's argument to place him.) In contrast, all the libertarians mentioned above adhere to a Neo-Aristotelian, teleological conception of the human good and derive their views of right living, both in the personal and in the public or political realms, from such a general philosophical position. Even in the historical recollection of the natural law/rights framework it is with

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John Locke that the libertarian position should be linked, rather than with Kant. Locke's theory of natural rights rests on a view of natural law that identifies it to be a person's basic moral responsibility to seek his own pleasure or happiness.

Isn't there still something to the cases Professor van den Haag provides to which the naturalist should pay heed, regardless of specific argumentative loyalties? What Professor van den Haag seeks to achieve is to show that no such theory can help us handle the cases he considers.

But these cases are peculiar. Each is a kind of emergency. Many presuppose moral wrongs having already been done. The antinomies are produced by earlier wrongdoings. And even though libertarian natural rights theorists, e.g., Eric Mack and myself, have actually addressed the class of such cases, Professor van den Haag has not found their work compelling enough to indicate how they have gone wrong.

The general thrust of the natural law/rights approach in handling antinomies may be summarized as follows: The purpose of ethics or moral systems is to provide for the guidance of human living. Political ethics and law provide guidance for human life in the company of other (unrelated) human beings.

To the extent that an ethical and/or political system helps achieve the purpose it naturally has—i.e., the purpose assumed in asking the question that gives rise to it as one of the many competing answers—it is a sound system. But even a sound system of ethics and/or politics (as well as physics and mathematics) can face difficulties, so the question is whether one or another faces them more successfully—more comprehensively, with greater integrity, etc.

The ethical dimension of one's life has priority. The political is subsidiary to it. When a conflict arises, the ethical is decisive. For official representatives of the political dimension this may not be advisable to *stress* publicly, of course, and as far as their own conduct is concerned, given their personal loyalties, the priority issue may not arise at all. (The point is well played out in Melville's *Billy Budd*.) The natural law (ethics) is prior; the natural rights (politics) each person has vis-a-vis others may on occasions have to be disregarded in the face of the responsibilities of natural law. Professor van den Haag's cases seem to me all explainable in terms of the naturalist stance just sketched.

This sketch calls to mind some useful elements of Professor van den Haag's consequentialist position. There is one major difference, however, in Professor van den Haag's teleological position and that which Mack, et al. have developed. Professor van den Haag is entirely uncommitted to some definitive (albeit general or broad) conception of *the* human purpose and, therefore, of the *summum bonum*.

With the human good left essentially subjective, the question of moral right and political rights is also undecidable for Professor van den Haag. His escape clause is in footnote number 50, but it is hopeless. Given what Professor van den Haag says, namely that what right and justice and the like come to is "stipulated along the lines of Ulpian's maxims, or along Roman or Common law lines" (p. 163), he just cannot make clear sense, in his own theoretical terms, of the assertion, e.g., that there is "a right or even the moral duty to be unjust to individuals in certain circumstances" (ibid.).

Professor van den Haag gives us the clue to the last criticism I wish to level at his positivist stance. He informs us that "The legal never exhausts the moral" (p. 164). What we could learn from this is that the law has a narrower scope than ethics and should be aimed at guiding us through *normal* elements of our lives, with its general edicts, compared to morality which bears on every aspect of life under our volitional control.

The naturalist normative framework may be difficult to erect. The main reason for the failure is not moral and political inadequacy but the flawed metaphysical and epistemological doctrines that have guided the enterprise of developing the naturalist position. We should heed Gilbert Harman's idea, that "We must take care not to adopt a very skeptical attitude nor become too lenient about what is to count as knowledge," in how we conceive of moral and political knowledge and in what tests we expect claims to such knowledge and the underlying arguments to meet.

Tibor R. Machan
Reason Foundation
Santa Barbara, California

Ernest van den Haag replies:

Professor Machan offers a summary of my views in which minor and major relevant arguments, and arguments I think irrelevant, are not distinguished. He repeats some of my views with qualified approval, links them to the views of others (I didn't, because of differences) and, finally, advances his own views to explain that mine are wrong because they are not his. He offers, as far as I can see, no other argument against my views except, perhaps, that they are uncomfortable. They are.

Professor Machan accuses me of inconsistency when I say that there "is a right or moral duty" to do x, since I do not justify rights. But I made it quite clear in the context that all I meant is that, if a, b, c are accepted, d follows; and, further, that I accept a, b, c though I do not believe that I can be shown to be right. He adds that "the purpose of ethics or moral systems is to provide for the guidance of human beings" and, if so, "it is a sound system." Sure. I, too, favor motherhood and apple pie (actually, I prefer *tarte tatin*). What about justifying the "guidance" provided, e.g., against different guidances, or, just, doubts? Professor Machan is mute, except to suggest that, in some Aristotelian form, nature provides and that I ought to be more committed than I appear to be to his "definitive conception of *the* (italics his) human purpose, and therefore of the *summum bonum*." No doubt if I were, it would make for a more comfortable intellectual life. But this (utilitarian) "argument"—the only one I can find in Professor Machan's display of erudition—does not seem sufficient to me.

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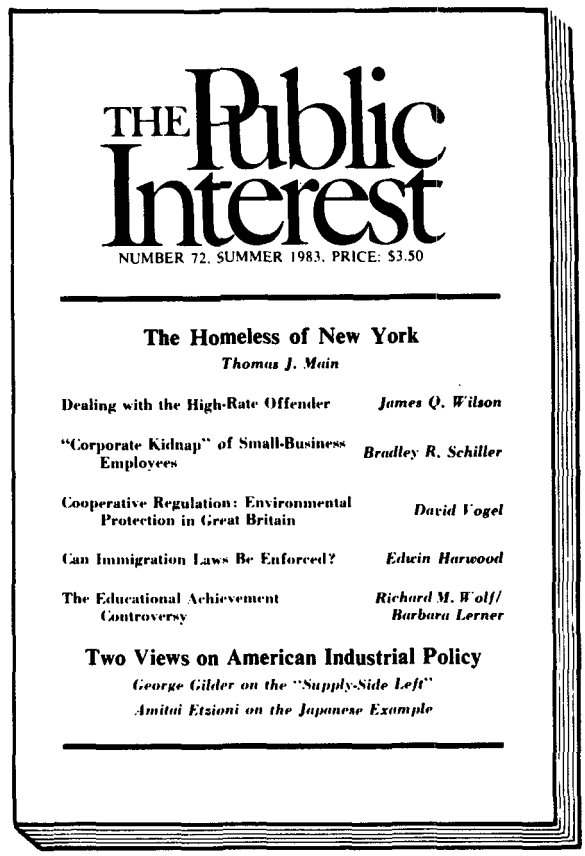
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The Homeless of New York. A groundbreaking new investigative study by Thomas J. Main, managing editor of *The Public Interest*. Main has uncovered a little-publicized body of facts and statistics on a subject beclouded by emotionalism and the special pleadings of advocacy groups. He demonstrates that the real issue is *not* how to maintain, at public expense, an underclass of permanently dependent homeless (the goal espoused by advocacy groups)—but rather how to help the surprisingly large percentage of those who are *not* truly homeless to shed their dependent status and become functioning individuals responsible for themselves.

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Law without Law

Politics in the Courtroom

Shirley Robin Letwin

Anyone who doubts that judges wield great power need only remember the conversation between the archbishop and the chief justice. The archbishop claimed to have the upper hand because, he said, "The most you, your lordship, can say to a man is, 'You shall be hanged!' whereas I have the power to say, 'You shall be damned!' " To which the chief justice replied: "True enough, your worship. But if I say, 'You shall be hanged'—you *will* be hanged."

Although the power of judges has been welcomed as well as recognized by Europeans since ancient times, the welcome has not been unqualified and has at times given way to hostility. Certainly the Star Chamber Court under Charles I was not much loved for being, as Maitland tells us, "a court of politicians enforcing a policy, not a court of judges administering the law."[1] Today, however, fear and resentment of judges who act as politicians enforcing a policy seem to be a thing of the past. In both Britain and the United States, once celebrated for the separation of powers, the judiciary is now expected to be "activist" and "creative," and although some of its manifestations are sometimes criticized, the creative activism of judges is generally accepted as a good thing by people of all political persuasions. Moreover, lawyers and judges, along with laymen, journalists, and academics, take it for granted that the changed character of the courts is an inevitable response to new needs and is therefore an irresistible and irreversible change.

. . . lawyers and judges . . . take it for granted that the changed character of the courts is an inevitable response to new needs . . .

But another striking change has hardly been noticed. In the last few decades there has been a remarkable increase of interest in the philosophy of law, or jurisprudence, as it is usually called. Jurisprudence has come to receive an unprecedented amount of attention in law schools, law journals, and bookshops. And even periodicals addressed to the common reader now carry discussion of the philosophy of law. This new attention has brought with it a new preoccupation with disputes about the role of the courts and the nature of adjudication.

Disputes of this kind were not an important feature of jurisprudence in the past. Until recently there had been agreement on the general character and purpose of adjudication. The substance of that agreement was described by Montesquieu when he said in *l'Esprit des Lois* that judges are "only the mouths that pronounce the words of the law, inanimate beings, who can moderate neither its force nor its rigor."[2] Chief Justice John Marshall expressed the same view in more modulated terms: "Courts are mere instruments of the law, and can will nothing. When they are said to exercise a discretion, it is a mere legal discretion, a discretion to be exercised in discerning the course prescribed by law; and when that is discerned, it is the duty of the court to follow it. Judicial power is never exercised for the purpose of giving effect to the will of the judge; always for the purpose of giving effect to the will of the legislature; or, in other words, to the will of the law."[3] There was no serious dissent from this view in the United States and Britain until the end of the nineteenth century.

One of the earliest signs of dissent in the Anglo-American legal world can be found in Justice Oliver Wendell Holmes's statement in 1904 that "the prophesies of what the courts will do in fact, and nothing more pretentious is what I mean by the law."[4] This theme was taken up in President Theodore Roosevelt's message to Congress in December 1908, when Roosevelt described the judges as "the chief lawmakers in our country" and declared that "for the peaceful progress of our people during the twentieth century we shall owe most to those judges who hold to a twentieth century economic and social philosophy and not to a long outgrown philosophy, which was itself the product of primitive economic conditions."[5] Although at the time the statement was greeted with outrage, the same theme appeared a few years later in Roscoe Pound's denunciation of "mechanical jurisprudence" and his call for the "adjustment of principles and doctrines to the human conditions they are to govern rather than to assumed first principles."[6] And within a decade Roosevelt's statement was strongly endorsed by Justice Benjamin Cardozo in his famous and influential book, *The Judicial Process*. Judges ought not, Cardozo said, to stand aloof on chill and distant heights.[7]

Nevertheless, Cardozo refused to go as far as the French jurist Saleilles, who had said that in reality the judge wills the result and "finds the principle afterwards," but in writing his opinion the judge reverses the order and presents the principle as if it were "an initial cause" from which he had deduced the result.[8] That was

SHIRLEY ROBIN LETWIN, *a legal theorist, is a member of the* Policy Review *editorial board.*

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too sweeping a statement, Cardozo said, because it ignored the factors that "cabin and confine within narrow bounds" the judge's "unfettered choice." Though he welcomed such "excess of emphasis" as a "needed corrective of an ideal of impossible objectivity," Cardozo still insisted that the idea of the law "as a real existence, dwelling apart and alone," speaking "through the voices of priests and ministers, the words which they have no choice except to utter," was an "ideal of objective truth toward which every system of jurisprudence tends."[9]

By the thirties, however, the idea of the judge as an interpreter of established law was completely spurned by the Realist school of jurisprudence in the United States. The Realists came in many varieties, but all argued that since in reality there is no knowing beforehand how a judge will decide, and since judges may disagree, the law does not automatically yield indisputable decisions and therefore the idea of law as a system of fixed rules should be dismissed as a utopian fantasy or a willful deception. Similar attacks on what was described as excessive formalism in legal theory were made elsewhere by Duguit and Gény in France, Salmond in England, Ihering and Ehrlich in Germany, and the Scandinavian Realists—Hagerstrom, Olivecrona, and Ross. "Sociological jurisprudence," the "jurisprudence of interests," and the "theory of the free decision" were developed in Europe to supplement Realism.

But it was in the United States that the new jurisprudence especially flourished.[10] Because the Realists advocated that less emphasis be placed on the rules and procedures of law and more on discovering how legal processes are embedded in social processes—what they called "law in action" or "law in context"—sociology and psychiatry became part of the law curriculum, and students were required to learn about the "social forces" and "psychological drives" that "lie behind" the law. What emerged from the Realist criticism of law has been described by Professor H. L. A. Hart as the nightmare theory of law, the nightmare being that the conventional image of the judge as an "objective, impartial, erudite, and experienced declarer of law," sharply distinguished from the legislator, "is an illusion and the expectations which it excites are doomed to disappointment."[11]

But since the fifties, the philosophy of law seems to have taken a different turn. Instead of being concerned with destroying the myth that judges decided cases in terms of fixed rules, jurisprudence has become preoccupied with discovering new understanding of adjudication that could replace the myth. This is most evident in the United States, where the discussion has been directed at considering the role of the Supreme Court in constitutional review, but the conclusions reached in that context carry (and are meant to carry) much broader implications for adjudication generally and the nature of law.

What new understanding of adjudication are we now being offered? There appear to be two sharply opposed views, one that carries the Realist attack still further, and one that returns to taking law seriously by making proposals for ensuring the objectivity of the judge.

The former comes from the advocates of political jurisprudence. They agree with the Realists that what matters is the behavior of judges and not law, that is to say, how judges vote is more important than the reasons they may give for their decisions. But political jurisprudence adds a new insistence on treating judicial decisions as part of the political process. It is essential to recognize, we are told, that the courts do not belong to a sheltered legal haven; that they are not a "unique body of impervious legal technicians above and beyond the political struggle." They are merely one government agency among many, part of the American political process. The courts serve as a political battleground, and the judge is a politician acting upon and being acted upon by other political forces. And this is what the courts must and should be in an age of "positive government." It follows that the search for judicial neutrality is a futile quest, and that the concept of a political court has to replace the concept of a court of law.[12] Attempts to find impartial legal standards

The Realists . . . argued that . . . the idea of law as a system of fixed rules should be dismissed as a utopian fantasy . . .

for judicial decisions are dismissed for being inspired by nostalgia, by the childish vision of law with a capital L that prevailed in the past. They are condemned for refusing to face the truth that the courts cannot avoid satisfying one interest at the expense of another and that there can be no single, accepted standard for balancing interests. Since the judge is bound to decide according to some preestablished hierarchy of values or social goals, he necessarily decides which social preferences or goals will be given priority.

Against the old-fashioned, idealized view—that justice can be blind and provide an even-handed application of known principles to known facts—political jurisprudence summons witnesses from all fields of learning in all ages: Plato, Karl Manheim, Gunnar Myrdal, Michael Polanyi, Reinhold Neibuhr, Herbert Butterfield, Alfred North Whitehead, and Isaiah Berlin are all called in to testify that neutrality or objectivity is unattainable, both in the social sciences and in the natural sciences, since even facts involve a judgment of value. Because every human activity involves a choice among values, because such choices are determined by the biography and heredity of the man making them, a wholly disinterested person or activity is impossible. We are informed that the rewriting of history is not confined to the Soviet Union, that the Supreme Court of the United States has also indulged in this practice, as the dissenting opinions of Holmes, Brandeis, and Stone in the late thirties were no more neutral than the decisions that had earlier developed the substantive due-process doctrine from the economic theories of Adam Smith and David Ricardo.[13]

Although the advocates of political jurisprudence acknowledge that many cases are decided in accordance

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with principles derived from past experience, they point out that the most important decisions are made in those areas of law where judges are divided by conflicting values. In such areas, only those whose battle has already been won plead for judicial self-restraint and insist that the function of the court is to defer to the legislature. They do so because the legislature is doing just what they want. But if judicial neutrality is impossible, objectivity can still be preserved, the new political jurisprudence argues, by requiring the judge to set out "in explicit form his value preferences as he understands them." If that were done, the "resulting judgment, were it not for the semantic problem, might even be termed 'objective'."[14] To explain and promote this view of the courts, we now need a teleological jurisprudence that is "purposive in nature rather than 'impersonal' or 'neutral'."

Such a jurisprudence would reject the old mechanistic view of the social process and try "to provide purposive direction to the flow of social events." Teleologic jurisprudence recognizes that the nature of government has changed and that many of the jobs once done by the three traditional branches of government are now being done administratively. The legislature merely formulates "broad policy guidelines for the conduct of our government," and it is the executive and administrative agencies that relate these guidelines to the complex facts of everyday life. In the same way the courts have lost power. They now decide only the pathological case that eludes the other branches of government or involves a "clash of values." In settling cases of the latter sort, the court acts "as a national conscience for the American people" and articulates "a broad norm" that transcends the particular dispute and provides a standard "toward which men and governments can aspire."[15]

In the new picture, reason, far from being the life of the law, is merely the language of political battle, and the court is "a power organ . . ."

All this has happened, we are told, because nowadays "a dwindling minority of Americans espouse views of *laissez-faire,*" and the old agreement on goals, postulated by laissez-faire, no longer exists. We have to recognize, the advocates of political jurisprudence urge, that the "social process" is not governed by something called reason, as jurists once believed, but "is a set of interlocking and interacting power relationships." These power relationships have changed because those who had been suffering have now become numerous and strong enough to exercise considerable leverage. And their political battles have become judicial in nature, which has turned the courts into a political battleground. In the new picture, reason, far from being the life of the law, is merely the language of political battle, and the court is "a power organ which aids in the shaping of community values." The only open question is whether it does so avowedly or abashedly. The court is part of a welfare state, and it cannot avoid being concerned with welfare. It can choose only whether to do so helter-skelter or explicitly and systematically.[16]

A court that clearly recognizes this will see that the most important question about a judicial decision is what effect it has on the realization of "societal values." Such a court will see that disputes "should avowedly be settled in terms of the external consequences of their application."[17] In decisions on antitrust laws, for instance, the judges would act as "political economists engaged in solving problems of economic organization" and would exercise "a freewheeling economic power."[18] To guide the judiciary in this operation, there are a number of suggestions, including a "law of human dignity"[19] and a "jurisprudence of welfare."[20]

All pride themselves on rejecting the old "phonograph theory of justice" and replacing it with an "affirmative jurisprudence."[21] But this does not mean, we are assured, that the judge will become arbitrary. It means that the judge will be "engaged in 'operational analysis'—in purposive directional thought—which is both a recognition of the creative nature of his job and a consideration of the forces that limit that creativity." Nor does it mean that the judiciary will become subservient to the state: "The judge may as easily act against the State as in support of it."[22]

The new political jurisprudence goes much further than its Realist predecessors in rejecting the traditional view of law. Even Thurman Arnold, Realist though he was, acknowledged some virtue in what he called Professor Hart's theology. Without "the shining but never completely attainable ideal of the rule of law above men, evolved solely from Reason," Arnold said, "we would not have a civilized government. If that ideal be an illusion, to dispel it would cause men to lose themselves in an even greater illusion, the illusion that personal power can be benevolently exercised."[23] But the advocates of political jurisprudence do not believe that despotism is the only alternative to the rule of law, and they insist that what is expedient for the community provides a "more viable point of departure for a jurisprudence of the age of the positive state."[24]

Blurred Distinctions

Outright calls for a political jurisprudence are supplemented by more sophisticated suggestions for concentrating on an analysis of the problem of language and power by using a combination of semiology, phenomenology, and Marxism, by consulting the work of writers, such as Levi-Strauss, Habermas, Barthes, and Althusser. Still other suggestions concentrate on explaining that legitimacy is only one "possible kind of effect of casting a political decision in legal form," which has been vastly exaggerated and has prevented "a more painstaking examination of the real factors which explain conforming behaviour." Or we are told that law should be regarded rather as a factor in the production of collective goods that depend on "mutual coercion."[25] But however much their programs differ, all these suggestions make a

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point of explicitly denying the distinction between a legal and a political decision that is central to the traditional idea of law.

The reduction of law to politics appears to be strongly opposed by those who have been trying to find new ways of establishing the objectivity of the law. These writers assume that doubts about the objectivity of judicial decisions arise from the lack of adequate statements of the criteria that govern adjudication, and they devote themselves to spelling out such criteria.

One of the more conservative suggestions is that of Professor George F. Christie, who argues that what is wanted are "fixed reference points" for legal reasoning that can be found in *uninterpreted* statutes and cases. He suggests that for the traditional question, Which is the true or correct rule for which a case or group of cases stands? we substitute the question, What factual differences distinguish one group of cases from another? This would reduce disputes about judicial decisions to "disputes about the significant factual differences among cases," which is a question that can be answered much more easily. Rigid adherence to precedent is not required, but because the court is required to demonstrate a plausibly significant difference in the facts of two cases that it proposes to decide differently, past cases cannot be lightly overruled.

Despite his concern for objectivity, however, Professor Christie does not exclude altogether the influence of personal values and goals on the judge. Since law is a purposive activity, he says, it must be founded "on the human preferences and values often grouped together under the rubric 'policy'." One can only place limits on the judge's attempts to promote the goals and policies he favors: "In deciding new cases in accordance with the model, courts inevitably must and do legislate, but they can do so only in a restricted and stylized manner."[26] That Professor Christie's conception of law is not at all like that of political jurisprudence makes it all the more striking that he goes so far toward accepting its view of adjudication.

Dispensing Justice

A more ambitious program for objectivity has been proposed by Professor Richard Wasserstrom. The problem, as he sees it, is to provide "natural" and "individualistic" adjudication that is at the same time objective. That a mechanical application of fixed rules and regard for precedent cannot provide justice has, he argues, always been recognized. Although that sort of decision "procedure" can provide certainty and efficiency, it applies legal rules to cases for no better reason than that they are the extant legal rules. If the object is to dispense justice, it is obviously undesirable to apply rules in this manner because "the sterile unfeeling application of extant laws," which ignores the merits of each particular case, cannot secure justice. And that is why it has long been felt that only the procedure of equity, where each case is decided without reference to rigid rules and precedents, produces justice.[27]

But this conviction has not been found generally acceptable, Professor Wasserstrom says, because in the past those who advocated equitable procedures assumed that the only basis for such procedures was intuition. Since intuitions are essentially private affairs, there can be no evidence for the correctness of the conclusion other than that the "intuitor" believes that he has had the proper intuition. Experience has shown that something more stringent is required to save us from arbitrary rule. Nevertheless, all is not lost. The benefits of an equitable procedure can be had without the drawbacks, Professor Wasserstrom suggests, if we accept a two-level system of justification.

In such a system, the court would be required to justify its decision, just as in the traditional view, by appealing to some legal rule. This insistence on invoking a rule to justify a decision would replace the amorphous intuitions of other proposals for equitable procedures. But appeal to a legal rule would not be mechanical and unfeeling because the rule itself would have to be justified on utilitarian grounds: "Thus, in contrast to the model of precedent, the process of justification does not come to an end once the relevant rule of law has been located and applied. On the contrary, a legal rule is a valid justification for any particular decision if and only if that rule is itself justifiable on utilitarian grounds. And unlike the model of equity, legal rules do play a role in the process of justification. Considerations of justice or utility are relevant, but only to the evaluation of rules of law, not to the decision in a particular case."[28]

Professor Wasserstrom's judge is . . . an arbitrator of conflicting interests who tries to produce "the most equitable" consequences for all parties.

Professor Wasserstrom's suggestion seems to accomplish the miracle that has always eluded legal systems, the marriage of objectivity with doing complete justice to the particularity and contingency of each case. But requiring the courts to justify their decisions by appealing to legal rules secures the litigants against judicial arbitrariness. Allowing judges to disregard precedent and established rules in favor of some other rules, when the principal of utility requires it, eliminates the drawbacks of applying general rules.And in assuring such objectivity, Professor Wasserstrom's proposal seems to be the very antithesis of political jurisprudence.

But the conception of law and adjudication that inspires his proposal makes the contrast somewhat less striking. Professor Wasserstrom's judge is not an officer authorized to decide what established rules mean with regard to particular occurrences. His job is not to decide whether what some person or persons have said or done conforms to the conditions stipulated by the law. Professor Wasserstrom's judge is something very different, an arbitrator of conflicting interests who tries to produce "the most equitable" consequences for all parties. Far

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from supposing that justice has to be blindfolded because it requires deciding only one question—whether the obligations laid down by the law have been met—Professor Wasserstrom asks the judge to consider whether the consequences of his decision are "more desirable for the litigants than those of any other possible decision." In other words, the judge is not bound to decide merely whether the accused had exploded a bomb to cause the death of the alleged victim and in so doing has violated the law; he has to decide whether using one rule or another will produce "a minimum of discomfort and a maximum of satisfaction vis-à-vis the two litigants." That the decision has to be filtered through a rule does not affect the central point of Professor Wasserstrom's jurisprudence, that its concern is with satisfying the interests of the litigants. "The consequences to them of deciding the case in one way rather than another are alone relevant to the question of what shall be regarded as justifiable decisions."[29]

[Equity] is a qualification designed to correct the most flagrant anomalies produced by adjudicating according to fixed rules . . .

The role of a legal rule in such a system is that of a working hypothesis, whose acceptance or rejection depends on whether its consequences are found to be satisfactory. That is why, although Professor Wasserstrom favors using the principle of utility to decide whether rules are desirable, he does not exclude the possibility of "sociological decisions" that would use "the best evidence obtainable from all fields of empirical inquiry."[30]

Nor does the introduction of rules make the judge less of a legislator in Professor Wasserstrom's system than in the proposals of political jurisprudence. Indeed, he says explicitly that there is no reason why the legislator's question should not also be the judge's question. His system is designed to permit the judge to revise the established rule or practice "whenever it can be demonstrated that the introduction of a new rule or practice is more justifiable on utilitarian grounds." To do otherwise, to refuse to permit rules to be revised, he points out, "seems little better than an uncritical acceptance of the moral and social *status quo*."[31] Since in his system the courts are not bound to maintain the established rules, they would not be bound by the errors of earlier procedure. This means that they would be unhampered by tradition. "They could meet each case as it came along and feel free to decide it and nothing more."[32]

Professor Wasserstrom has not just refined and supplemented the traditional idea of equity. He has radically transformed the role of equity in the legal system. Although it is true, as he says, that Aristotle wrote in praise of equity, Aristotle understood equity as an occasional qualification on the usual operation of the law. It is a qualification designed to correct the most flagrant anomalies produced by adjudicating according to fixed rules, which for Aristotle constituted the essence of law. Others have emphasized the dangers of equity. It was denounced by Kant as "a dumb goddess who cannot claim a hearing," and by John Selden as 'a roguish thing'. And William Blackstone warned against "the liberty of considering all cases in an equitable light . . . lest thereby we destroy all law." But Professor Wasserstrom, for all the complexity of his two-level system, reduces the whole of law to equity.

The judge in Professor Wasserstrom's system understands himself in much the same way as the judge of political jurisprudence—as a part of the political process. Although he writes his opinions in a different manner and is required to think in terms of the interests of the litigants rather than the goals of the community or group that he wishes to promote, he is just as remote from the judge who is obliged to do nothing but interpret established law.

The most influential effort to redefine legal objectivity has been made by Professor Ronald Dworkin. He presents his theory of rights as an attack on the positivist thesis, which he attributes to H. L. A. Hart, his predecessor in the chair of jurisprudence at Oxford. According to Professor Dworkin, positivists hold that there is a clear test for distinguishing legal rules from nonlegal standards. Because positivists define law so narrowly, he argues, they conclude that whenever the judge relies on anything other than legal rules, he goes beyond the law and exercises an unconstrained discretion. But the judge need not and should not exercise such discretion even in "hard" cases because the law includes other sorts of standards or principles, which cannot be classified as rules or captured by any such fundamental test. Instead of dictating results as rules do, such principles only state a reason that argues in one direction.[33] Once principles are recognized to be part of the law, Professor Dworkin says, it becomes clear that there is one right answer for every case and no room for judicial discretion.

Principles vs. Policies

This theory has become the subject of wide discussion. And most of the commentators have concluded that the moral of Professor Dworkin's story is, as Professor Hart puts it, that "the judge, however hard the case, is never to determine what the law *shall* be; he is confined to saying what he believes *is* the law before his decision, though of course he may be mistaken. This means that he must always suppose that for every conceivable case there is some solution which is already law before he decides the case and which awaits his discovery. He must not suppose that the law is ever incomplete, inconsistent, or indeterminate; if it appears so, the fault is not in *it*, but in the judge's limited powers of discernment . . ." [34]

Professor Dworkin's reputation as a defender of a strict idea of judicial objectivity is reinforced by his distinction between principles and policies. Principles, he tells us, ascribe benefits to individuals on the ground that they possess a right to them, whereas policies grant benefits on the ground that doing so will promote some

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collective goal, such as national prosperity. Policies are the proper ground for legislative decisions but not for judicial decisions, which should be based on principles. In making his decision, the judge is obliged to construct a political theory that articulates the consistency among the principles and precedents he uses and the result he reaches, and this political theory constitutes the objective ground of his decision.

A number of critics have pointed out that Professor Dworkin's "chosen antagonist has feet of straw" and that no such positivist as he opposes exists.[35] But mainly the discussion of his theory concentrates on his distinction between principles and policies. Though a few critics consider it a distinction without a difference, mostly they believe that adjudication cannot be distinguished from legislation and should not be. They argue that if judges were confined to working with principles and so excluded from making policy, this would keep judges from bringing about desirable social reforms that have been blocked by conservative legislators.[36]

The curious thing about the response to Professor Dworkin's theory is that it has ignored his denials that he wants the judge to be a mouthpiece of established law. He does not describe arguments of principle as wholly distinct from political arguments. On the contrary, he says, "Arguments of principle attempt to justify a *political decision* that benefits some person or group by showing that the person or group has a right to the benefit."[37] And he makes a point also of denying that arguments of principle are more indifferent to consequences than arguments of policy. "Consequentialist arguments," he tells us, "may be introduced into a debate about rights not only by the proponent of a right, but by its challenger." This is not, he explains, what produces the difference between an argument of principle and an argument of policy. It is a "difference between two kinds of questions that a *political institution* might put to itself . . ." [38]

The Right to Disobey

Although Professor Dworkin sometimes describes rights as "there," to be found in the existing law by the judge, in other contexts he suggests that rights are outside and anterior to the law, indeed antagonists of the law. He says that such rights as men do have cannot be established by the mere passing of a law. He maintains that rights may provide a ground for a claim to have new laws passed or even for making a revolution: "Suppose that my political theory provides that every man has a right to the property of another if he needs it more. I might yet concede that he does not have a legislative right to the same effect; I might concede, that is, that he has no institutional right that the present legislature enact legislation that would violate the Constitution, as such a statute presumably would. . . . Even if I did make these concessions, I could preserve my initial background claim by arguing that the people as a whole would be justified in amending the Constitution to abolish property, or perhaps in rebelling and overthrowing the present form of government entirely."[39] Professor Dworkin goes so far as to argue that a man "does sometimes have the right, in the strong sense, to disobey the law. . . . whenever that law wrongly invades his rights against the Government." If we recognize the right to free speech, he says, it follows that a man has "a moral right to break any law that the Government, by virtue of his right, had no right to adopt. The right to disobey the law is not a separate right, having something to do with conscience, additional to other rights against the Government. It is simply a feature of these rights against the Government and it cannot be denied in principle without denying that any such rights exist . . ."[40]

But even when Professor Dworkin's rights are not invoked *against* the law as a ground for violating or changing it, even when rights are treated as part of the law, they may be used to change the law by a judge. Professor Soper has shown that the vagueness of the principles and rights that the judge is supposed to account for in his political theory makes it possible for him

. . . Professor Dworkin tells us that judges who . . . make political decisions are more likely to promote the rights of disadvantaged minorities.

to construct standards that do not actually prevail in the community.[41] For Professor Dworkin's judge is not obliged to take into account what other judges believe to be the soundest theory; on the contrary, he is obliged to construct his theory independently of other judges. Since Professor Dworkin advocates besides that the judge formulate a "theory of mistakes" so that precedents can be discarded in a systematic manner, this permits the judge to ignore any data that do not fit with his theory. Moreover, there is no ground in Professor Dworkin's theory for excluding any questions from the court's agenda. The rights thesis neither raises nor supports questions about whether an extension of the court's activities to, say, administration is a proper exercise of judicial authority.[42]

Indeed, Professor Dworkin says explicitly that the rights thesis requires the judge to make "political" decisions. He regularly contrasts decisions that are made according to what he calls the rule book to "political decisions made in terms of rights." He points out that in making political decisions about rights, the judge is making the same kind of decision that the rulebook theory of law expects the legislature to make. And his arguments for giving the right to equality priority over the right to liberty make it clear that he recognizes the existence of rights to be a matter of dispute. In addition, Professor Dworkin tells us that judges who are willing to make political decisions are more likely to promote the rights of disadvantaged minorities—something the legislature, being responsible to the majority, is reluctant to do. To insist that such changes be made by an elected legislature is, he says, "only a disguised form of the skeptical point that there are in fact no rights against the state."[43]

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What Professor Dworkin expects of judges is stated boldly in his British Academy lecture, "Political Judges and the Rule of Law," in which he addresses himself to considering whether judges making political decisions are more likely to arrive at conservative decisions. And he concludes, "The obligation to show the political character of the decision as a decision about individual rights rather than the general welfare must act as a general liberal influence."[44] He assures us besides that if the rights conception of the rule of law were to take over, the law would want to attract more of those who change the social order, and he speaks of his theory as political jurisprudence: "The argument that political jurisprudence would be a misfortune in Britain because judges are too firmly welded to the established order simply begs the question. If law had a different place here, different people would have a place in the law."[45]

. . . there is some confusion about whether [his] theory is designed to keep a sharp distinction between judging and legislating . . .

How Professor Dworkin's rights thesis promotes reform by adjudication is illustrated in Professor Soper's observation that it would sanction the argument of a vegetarian "that it is a present duty of society to refrain from killing animals for food, even though existing practice does not conform to such a rule."[46] And this is just the sort of argument that Professor Dworkin has made in connection with the fugitive slave cases (which arose in the U.S. courts before the Civil War); the judges, he has argued, were wrong in believing that it was their duty to enforce the law against the slaves, rather than to follow their own moral convictions. They were wrong in preferring institutional duty to independent principle. Had they instead adopted the correct theory of jurisprudence, "that the law of a community consists not simply in the discrete statutes and rules that its officials enact but in the general principles of justice and fairness that these statutes and rules, taken together, presuppose by way of implicit justification," the judges would have substituted general principles of justice and fairness for the existing law and decided in favor of the slaves.[47]

Nevertheless, it is not surprising that there is some confusion about whether Professor Dworkin's theory is designed to keep a sharp distinction between judging and legislating, between law and politics. After having criticized the judges of the fugitive slave cases for enforcing the established law instead of changing it to accord with principles of justice and fairness, a few weeks later in the same journal, he said that his review had "offered a sketch of an idea of law" that "limits rather than extends the discretion of judges . . . it could not enlarge that discretion."[48] He referred to that review again in his reply to his critics in a *Georgia Law Review* symposium, reporting himself as having said that those cases "were wrongly decided, just as a matter of law." And he explained that he believed that legal rights are "institutional rights . . . that provide important and normally very powerful reasons for political decisions." But then he went on to say, not very helpfully, "Background moral rights enter, in ways I have tried to describe, into the calculation of what legal rights people have when the standard materials provide uncertain guidance, and some positivists' thesis, that legal rights and moral rights are conceptually distinct, is therefore wrong."[49]

The pattern is the same in Professor Dworkin's more general remarks on the nature of law. In the symposium he said, "The rights thesis was meant to be both descriptive and normative." And he added, "If I thought that my thesis was a banner for revolution, I would hardly argue that judges characteristically do what it recommends. I was at pains to stress that I meant to offer not a program of reform, but a better characterization of what we all know judges do." As before, he insisted that there is "critical power in the rights thesis," but here the critical power establishes that judges ought not to be making new rules.[50] And yet, earlier in the same essay in which these remarks appear, he rejected the old picture of law as a system of fixed rules. He believed, he said, something very different from this: "I hope to persuade lawyers to lay the entire picture of existing law aside in favor of *a theory of law that takes questions about legal rights as special questions about political rights, so that one may think a plaintiff has certain legal rights without supposing that any rule or principle that already 'exists' provides that right.*" Professor Hart and others, he complained, "have tried to force my views into the old picture I reject."[51]

That statement is echoed in Professor Dworkin's British Academy lecture, in which he described the rights thesis as a radically new understanding of the law and repeated his earlier declaration that he wished to persuade his audience to give up the rulebook view of law for the rights view. There he argued that it is entirely proper to expect judges "to make political decisions of the sort I say the rights conception requires them to make."[52] The antithesis between these two views of law is also a persistent theme in his book, *Taking Rights Seriously*: "My point was not that 'the law' contains a fixed number of standards, some of which are rules and others principles. Indeed, *I want to oppose the idea that 'the law' is a fixed set of standards of any sort.*"[53]

None of this has prevented Professor Dworkin from being praised for having made the most distinguished contribution of our time to jurisprudence by developing a more "sophisticated methodology" that offers more effective resistance to the "irrationalism" of our age.[54]

As in other fields of philosophy, the practitioners of jurisprudence have become so preoccupied with arguments about technicalities that they can no longer remember why the argument began. Despite all the talk about teleological and purposive jurisprudence, despite the avowed interest in the relevance of morality for law, there is no mention of the concerns that once made the subjects of a legal system grateful for their superior civi-

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lization. Forgotten is the fundamental difficulty for which the rule of law is the only remedy—the fact that we do *not* all agree on what constitutes justice. We do not all agree on what rights men ought to have, on whether equality or liberty is more important. Each party tries to suggest that *its* collection of rights is indisputable by calling them human or natural rights, but the human rights of communists are hardly those of libertarians.

It ought to be obvious. Once men give up tribal life, they become associated in a community that embraces many different beliefs about right and wrong. Because the rule of law provides procedures whereby disagreements on substance can be translated into agreements on formal arrangements, it makes it possible for men who differ to live together in peace. That was why Socrates felt obliged to obey the unjust sentence that condemned him to death. "Do you imagine," he said, "that a city can continue to exist and not be turned upside down, if the legal judgments which are pronounced in it have no force but are nullified and destroyed by private persons?" If he evaded his sentence, he would become the basest of creatures, a destroyer of law, whom every city would shun because members of the higher forms of society must regard such a man as an enemy of civilization.

The current indifference to the fundamental purpose of law has developed out of a preoccupation with the uncertainty of law. The authors of the new jurisprudence suffer from a strange illusion that they are the first to have discovered that judicial decisions are disputable. Yet this is the oldest of truths in the philosophy of law. Plato and Aristotle and their medieval disciples knew that because there is necessarily a logical gap between a general rule and a particular decision and because reasoning about contingent matters cannot produce indisputable truth, there can be no certainty in the law.

The only new thing in the recent preoccupation with adjudication is the false assumption that without certainty there can be no objectivity. The new jurisprudence plays on this false assumption to assure us either that we should give up the law as an illusion or that there is a way to make an indisputably correct assessment of interests, goals, or rights. No one takes notice of the distinction that is crucial for understanding the law and that was recognized in this century even by a Soviet Marxist philosopher of law, Pashukanis. He distinguished between technical regulations, designed to secure substantive results, and law, designed not to satisfy any interests or to secure efficiency but to govern the relations among people who are self-determining and pursuing their various projects. What defines a legal regulation, Pashukanis insisted, is its *noninstrumental* character, its indifference to the projects and interests of its subjects.

This used to be an undisputed, even if unarticulated, commonplace. But the new jurisprudence nowhere displays any awareness of the noninstrumental character of law. Instead, law is regularly identified with regulations designed to secure this or that satisfaction variously described as rights, interests, or goals. The formality of the law, once recognized to be of its essence, is disdained and destroyed, while we are assured of what is plainly false, that we all agree on what is just and right.

Mainly, the advocates of the new jurisprudence address themselves (although not always overtly) to discovering ways in which the judge can circumvent his authorized jurisdiction so as to effect changes in the law that, they admit, the elected representatives of the people decline to promulgate. If they sometimes display embarrassment at their lack of loyalty to democracy, they show no discomfort whatever about their betrayal of the rule of law, if indeed they are aware of it. Instead of offering us enlightenment on the many genuinely puzzling questions about the law, they have endowed us with a new vocabulary that transforms "rules of law into institutionalized rights," the judge's decision into a "political process," and the logic of the law into "operational analysis." And by multiplying confusion, they have emptied our old vocabulary of meaning. Exercising discretion has become a synonym for deciding between chocolate and raspberry ice cream, adding 2 and 2, determining the guilt of an accused, and overthrowing the Constitution.

The natural-law school, which purports to have risen above positivist analysis to consider higher things, has only exacerbated the confusion.[55] Its proponents have forgotten what was emphasized by Aquinas (whose disciples they pretend to be): that a duly promulgated law, even if unjust, still has the character of law and therefore obliges obedience. Instead, they invoke a travesty of classical natural law to justify their telling us that a subject who finds a law immoral has the right to refuse to subscribe to it. The advocates of natural law are no more aware than the others that the distinction between the authority and the justice of law, like the formalities of the law generally, is what enables the law to bring peace to people who may disagree on what constitutes justice.

A few clear voices are still to be heard. H. L. A. Hart and Edward Levi continue to be read, though often through remarkably distorting lenses. Friedrich Hayek's volumes on the rule of law are cited, though they are appreciated more by his political allies than by students of jurisprudence—and then not always for the right reasons. But it is a striking symptom of the current state of affairs that the appearance of Michael Oakeshott's concise and complete account of the rule of law in his recent book, *On History and Other Essays* (Oxford: Blackwell, 1983), has not excited public attention.

In view of how we have been learning to think about the law, it would be amazing if our courts had not become "activist" and "creative." The way our judges conduct their courts is, however, no more irreversible than the way we organize our economic affairs. It is time we took a leaf out of the communist notebook. The Soviets take ideas about the nature of law so seriously that they executed Pashukanis when they decided that his theory was at odds with communism. It would be difficult, even if it were desirable, for us to follow suit, since nearly the whole of the Anglo-American legal establishment seems to have become converted to views that undermine the rule of law. But we might learn from the communists that the easiest way to destroy the rule of law is to confuse and pervert our understanding of it. The vitality of our legal inheritance is such that we still have time to reconsider before it is too late.

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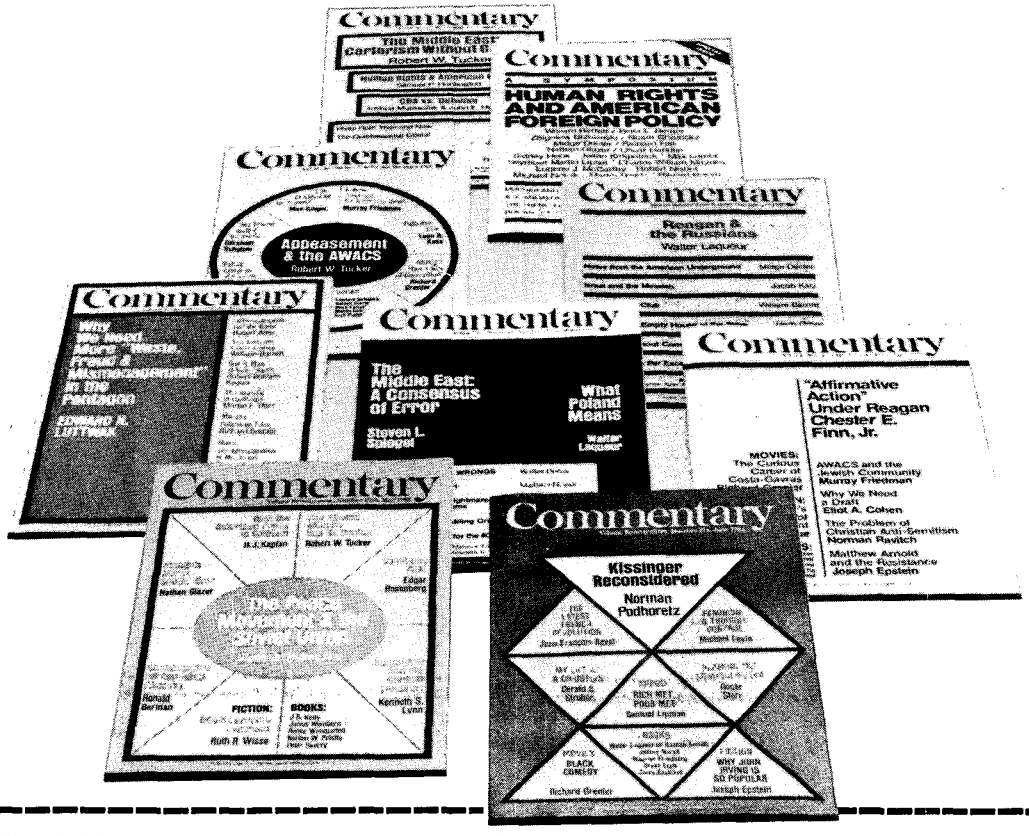

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Can Democracy Keep Secrets?

Do We Need an Official Secrets Act?

Guenter Lewy

Under current American law, an employee of the Department of Agriculture who reveals information on next year's soybean crop estimate may find himself behind bars. But an employee of the Defense Department who leaks classified defense information to a member of the press is probably not guilty of any criminal offense. Similarly, a reporter who obtains secret national security information and publishes it on the front page of his newspaper most likely has not committed espionage or violated any law.

The United States may be the only nation . . . without any meaningful defense against the publication of classified defense information.

The qualifications "probably" and "most likely" are necessary because the only certainty about our statutes on leaking and publishing defense information is that they are a morass. Concerned citizens and various commissions of experts have drawn attention to this state of affairs, but Congress has failed to act. The most recent attempt to deal with this charged issue came during the almost decade-long endeavor to update the federal criminal code, but it ended in the spring of 1982 in yet another stalemate between liberals and conservatives. The decision of the Supreme Court in the Pentagon Papers case, which might have clarified some of the constitutional issues involved, instead raised more questions than it answered.

Today the United States may be the only nation in the world without any meaningful defense against the publication of classified defense information. Even in Sweden, a country with a tradition of open government more than two centuries old, a civil servant and two journalists were sent to jail in 1973 for their share in the publication of a series of articles about Sweden's security services. Great Britain, the longest-functioning parliamentary democracy, has one of the strictest systems of official secrecy. On grounds of historical experience, at least, there is therefore room for the argument that the United States could take measures to protect its vital secrets without sacrificing its liberties. Absolutist interpretations of the Constitution, according to which the First Amendment stands in the way of such legislation, deserve a respectful hearing but may prove unconvincing. An unrestricted right to disseminate national security information is not essential for a free people and indeed may threaten the very survival of that society. The Constitution, as the Supreme Court has often affirmed, is not a suicide pact.

Present statutes fall into two categories: those concerning classical espionage, the transmission of defense information to a foreign power; and those governing the disclosure of classified information by a present or former employee or official of the government. As complex and confused as much of this body of law is, it becomes a veritable minefield of legal ambiguities when applied to the publication of such information by the media.

The law concerning espionage is to be found in sections 793 to 798 of Title 18 of the United States Code. Most of these provisions were enacted in the Espionage Act of 1917,[1] and a few were added by the Internal Security Act of 1950.[2] Analysis of the language of these statutes and of their legislative history makes it likely that they do not prohibit the publication of defense information.

The most comprehensive provisions are in section 794. Subsection 794(a) punishes by death or imprisonment up to life the actual or attempted communication to any foreign government or foreign citizen of "any document, writing, code book, signal book, sketch, photograph, photographic negative, blueprint, plan, map, model, note, instrument, appliance, or information relating to the national defense." Such communication is unlawful if done "with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign nation." There are ample grounds to think that this section does not aim at public speech or publication. The proscribed activity is communication *to* a foreign recipient; one who publishes defense information does not thereby communicate it to foreigners in the sense of the statute, nor does he necessarily have a culpable intent to injure the United States or aid a foreign power. Presumably, the framers of this legislation saw a difference between communicating and publishing, and an examination of the prolonged debates in the Congress in 1917, covering more than 300 pages of the *Congressional Record,* reinforces, if not confirms, this conclusion.[3]

Subsection 794(b) punishes by death or imprisonment up to life the communication or publication "in time of war" of information concerning the movement or disposition of troops, of plans of military operations or

GUENTER LEWY, *author of* The Federal Loyalty-Security Program: The Need for Reform *(1983), is a professor at the University of Massachusetts.*

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fortifications, or of "any other information relating to the public defense, which might be useful to the enemy." Subsection 794(b) is applicable only "in time of war"; however, it punishes not only the communication of defense information to an enemy but also the publication of such information—if done "with intent that the same be communicated to the enemy."

Treasonable Intent

The legislative history of subsection 794(b) reveals that a majority of the Congress in 1917 did not want to prohibit all publication of defense information. Although the Wilson administration sought just such a statute—a blanket restriction on the publication of defense information without any limiting requirement of intent—Senate progressives, including Borah, La Follette, Norris, and Hiram Johnson, feared the aggrandizement of presidential power during wartime and were determined to prevent a general censorship provision. The language that was finally approved therefore required an intent that will be present only very rarely. The only publication prohibited by subsection 794(b) is publication that has the purpose of informing the enemy—the kind of activity engaged in by a disloyal newspaper or by a disloyal person inserting a coded advertisement. Congressional supporters of a more sweeping provision pointed out in the spirited debate that a newspaper's disclosure of defense information could aid the enemy even if the newspaper's editors and reporters acted without a treasonable purpose. Nevertheless, their argument did not prevail, and subsection 794(b) probably reaches only the kind of publication that has the specific purpose of informing the enemy.[4]

Subsection 794(b) harbors other ambiguities. The statute does not say who determines the country's "enemy." And in today's world it is not always obvious who the enemy is. Were the Vietcong who shot at U.S. military advisers in 1964 an enemy within the meaning of the statute, or did they become an enemy only after the introduction of regular U.S. combat forces and the beginning of all-out hostilities with North Vietnam in 1965? In 1972 the United States bombed Chinese ships in Haiphong harbor while it played host to the same country's Ping-Pong team. Was Communist China then our enemy? A statute that exposes the average citizen to such uncertainties in deciding the outer limits of legal activity may have difficulty passing constitutional muster.

Additional problems of interpretation arise with section 793, which names six offenses involving the gathering of defense information, each punishable with imprisonment of up to ten years. Subsection 793(a) covers entering or flying over a defense installation "for the purpose of obtaining information respecting the national defense with intent or reason to believe that the information is to be used to the injury of the United States, or to the advantage of any foreign nation." Subsection 793(b) concerns taking or copying "with like intent or reason to believe" documents, plans, maps, or photographs from such installations. These offenses are not defined in terms of the actor's intent to deliver defense information to a foreign power, as in subsection 794(a), or to aid an enemy in time of war, as in subsection 794(b). Could these provisions reach the information-gathering activities of reporters or their informants?

There is first the question of the meaning of "information respecting the national defense." In an era when virtually every facet of civilian life can have an important bearing on the nation's military capabilities, what kind of information is included or excluded by that phrase?

The problems of interpretation were noted during the congressional debate in 1917, but no agreement was reached on a more precise term. In the years since, the courts have had occasion to give content to the amorphous language of the statute. In the landmark case of *Gorin v. United States*,[5] decided in 1941, the Supreme Court ruled that the term "information related to the national defense" was sufficiently precise and did not create due-process problems of vagueness. National defense, said the Court, is a "generic concept of broad connotations, referring to the military and naval establishments and the related activities of national preparedness." Whether any particular information was related to the national defense and protected by the espionage act was for the jury to determine from an examination of the material and expert testimony on its significance.[6]

The Supreme Court's ruling in the *Gorin* case leaves many questions unanswered. What about information relating to the nation's economic strength, civilian morale, or the diplomatic establishment? How important must the information be? Is every little detail, such as that sailor John Doe has joined the submarine fleet, to be protected? What about information that the government has not sought to keep secret or data that have found their way into the public domain despite such endeavors?

Lawful Sifting

The last-mentioned issue arose in *United States v. Heine*,[7] a case decided in 1945 by Judge Learned Hand of the Court of Appeals of the Second Circuit in a ruling left standing by the Supreme Court. Shortly before World War II, defendant Heine, a naturalized citizen of German origin, had compiled extensive reports on the U.S. aviation industry and had mailed these to different addresses for forwarding to Germany. The evidence allowed the inference that he had chosen this procedure to avoid detection. Still, Judge Hand ruled that Heine was not guilty of espionage because the information Heine collected came from sources that were lawfully accessible to anyone willing to take the pains to find and sift them—books, magazines, newspapers, correspondence with manufacturers, talks with employees. Moreover, the government had not tried to prevent the dissemination of this kind of information. No matter what the motive, Judge Hand concluded, whatever was lawful to broadcast throughout the country was lawful to send abroad.

In the *Gorin* case the expansive reach of the term "national defense" was saved from the constitutional infirmity of overbreadth by Judge Hand's ruling that the sanctions of the act applied only if *scienter* (a knowing violation of the law or a guilty intent) was established: "The obvious delimiting words in the statute are those requiring 'intent or reason to believe that the information

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to be obtained is to be used to the injury of the United States, or to the advantage of any foreign nation.' This requires those prosecuted to have acted in bad faith."[8] The same culpability standard is used in section 794(a) and in other parts of section 793. Applied literally, this way of establishing the presence of *mens rea* (a guilty mind) would appear to create serious difficulties for public speech and publication.

According to the usual meaning of words, a reporter who obtains and publishes secret defense information probably has reason to believe that this information would be used to injure the United States or help a foreign power. Foreigners, and especially agents of foreign intelligence services, are known to be avid readers of our publications. For example, had the *New York Times* in 1961 published an account of the imminent invasion of Cuba, as President Kennedy is said to have thought it should have done, Cuba would undoubtedly have benefited. Read in this way, subsections 793(a) and 793(b) bring about the kind of general prohibition on publication that the Congress in 1917 clearly wished to avoid.

Foreigners, and especially agents of foreign intelligence services, are known to be avid readers of our publications.

Both the House and the Senate were aware of the possible pitfalls in this section of the law. Yet despite the sweeping language of the culpability standard adopted—"intent or reason to believe"—they appear to have been convinced that the information-gathering offenses of subsections 793(a) and 793(b) were adequately limited by a requirement that there exist a proven evil purpose to reveal the information to a foreign country or to injure the United States. If correct, such a reading of the law may indeed protect journalists whose primary purpose in gathering defense information is neither to injure their country nor to aid a foreign nation, but it causes problems in certain traditional cases of espionage. For example, a serviceman who sells military secrets to a foreign agent could claim that his main purpose was to obtain money, not to injure the United States. To prevent such an interpretation, it probably is necessary to focus on the actor's state of mind about the use of the secret information. This would require us to read the phrase "reason to believe" not simply as being aware of likely consequences but as understanding the primary use to which the information will be put by others. The greedy serviceman presumably has reason to believe that the information he sells will be used primarily to injure the United States or advantage a foreign country. By contrast, the reporter is aware that some persons will put his story to such use, but the primary uses he seeks are those that enlighten his compatriots.[9]

Sections 793(d) and 793(e), probably the most confusing of the espionage statutes, come closest to touching the activities of reporters because their sweeping provisions lack a specific evil intent requirement. In the original version this part of the 1917 statute was meant to apply only to government employees. That such employees can be held to a higher standard of loyalty than the population at large may explain the absence of a clear culpability standard. In 1950, while working on the Internal Security Act, Congress split the section into two and made it apply to all persons.

Subsection 793(d) imposes a fine of not more than $10,000 or imprisonment up to ten years on any person who, having lawful access to or possession of any document, map, photograph, etc. "relating to the national defense" or entrusted with information "the possessor has reason to believe could be used to the injury of the United States or to the advantage of any foreign nation," willfully communicates the same "to any person not entitled to receive it" or retains the same. Subsection 793(e) imposes the same penalties on anyone who, having unauthorized access to or possession of such items, communicates these to any person not entitled to receive them or willfully retains them. Subsection 793(d) reaches people with lawful possession of defense-related material; subsection 793(e) covers people not connected with the government who have unauthorized possession. Applied literally, these sections could well affect journalists, even though legislative history makes it appear that Congress was unaware of this possibility and indeed did not want to prohibit the publication of defense information.

Sections 793(d) and 793(e) raise a host of complex issues. Who, for example, is entitled to receive defense information? One is tempted to think that this provision refers to the classification system that provides for authorized access after security clearance. The problem is that no such classification system existed in 1917, when the phrase in question was first used. Moreover, Congress until now has steadfastly refused to enforce the classification system with criminal sanctions. Another example: The phrase "relating to the national defense" here, unlike subsections 793(a) and 793(b), is not limited by a *scienter* (guilty intent) requirement and therefore may be subject to constitutional challenge on grounds of excessive vagueness and overbreadth. Similar problems arise in connection with the offense of retention. Given the constitutional rule that overly broad statutes touching on First Amendment freedoms may be attacked even by those whose activities could legitimately be subject to a narrower statutory regulation or prohibition, it is highly questionable that subsections 793(d) and 793(e) could survive judicial scrutiny if applied to the work of the press. The same result can be expected from the absence of a culpable intent requirement, generally necessary in statutes bearing on freedom of expression.

Exemption for the Fourth Estate

The conclusion that Congress in 1950 had not thought to enact a general prohibition on the publication of defense information is reinforced by its concurrent passage of section 798, which made it criminal to publish classified information concerning a narrow class of highly

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secretive items, such as codes, ciphers, and cryptographic systems. Since those items clearly constitute "information relating to the national defense," it is reasonable to conclude—and the legislative history of section 798 supports this finding—that Congress did not consider the more general statutes an adequate protection against the publication of such information and therefore enacted more explicit legislation.

Other statutes bearing upon the publication of defense information for the most part aim at employees of the government. Here, too, it is apparent that Congress went out of its way to exempt newspapers and reporters from the reach of these laws. In 1933 Congress enacted what is now section 952 of Title 18 of the U.S. Code, which protects diplomatic codes. Enactment was prompted by the 1929 publication of a former State Department employee's book, *The American Black Chamber,* which described code-breaking procedures and included translations of decoded dispatches by the Japanese government. In late 1932 a second manuscript on the same subject was completed. The law that was approved punishes by fine or imprisonment anyone who "by virtue of his employment by the United States" obtains an official code or coded message and "willfully publishes or furnishes to another any such code or matter." A proposal to include anyone and not just present or former government employees was rejected. Debate over this bill made it clear that it was aimed solely at federal employees who breached their trust, not at reporters or newspapers publishing code material.

In 1950 Congress included in the Internal Security Act a provision that made it unlawful for an officer or employee of the federal government to communicate to any agent of a foreign government or member of an officially designated communist organization any classified information, "knowing and having reason to know that such information has been so classified." The provision is codified in section 783(b) of Title 50 of the U.S. Code; section 783(c) prohibits agents of foreign governments from knowingly receiving such classified information.

Foreign Agents

In the case of *Scarbeck v. United States,*[10] decided in 1962, the U.S. Court of Appeals for the District of Columbia upheld the conviction of a Foreign Service officer for communicating classified documents to representatives of the Polish government in violation of subsection 783(b). The argument of the defendant—that the jury should have passed on the propriety of the classification—was rejected. Unlike the espionage statutes discussed earlier, the so-called *Scarbeck* statute does not require the government to prove that the classified information related to the national defense or that it was communicated with intent to injure the United States or give advantage to a foreign government. The court made it clear that the *Scarbeck* statute covers only present officers or employees of the government, and it applies only when the recipient of the information was someone the defendant knew or had reason to believe was an agent of a foreign government or a member of a communist organization. In other words, a government employee who leaks classified information to a reporter has not violated the *Scarbeck* statute unless the reporter is a foreign agent or a member of a communist organization; an editor who publishes the information in his newspaper likewise has not committed an offense.

The Atomic Energy Act of 1946[11] includes a prohibition on the communication or disclosure of certain classes of "restricted data" concerning atomic weapons and nuclear energy—sections 2271–2281 of Title 42 of the U.S. Code. Section 2777 makes it unlawful for present or former government employees or contractors to disclose restricted data to anyone not authorized by the Atomic Energy Commission to receive same; the culpability standard in section 2774 covers not only willful infliction of injury on the United States or securing an advantage to a foreign nation but also recklessness, and perhaps negligence, in the handling of such data. Section 2275 makes criminal the receipt of restricted data with intent to injure the United States or advantage a foreign power.

The injunction proceeding that section 2280 authorizes against a violation was invoked in 1979, when Howard Moreland was writing a magazine article on the working of the hydrogen bomb. The government contended that the article contained restricted data. In March the U.S. District Court in Milwaukee issued a preliminary injunction prohibiting the *Progressive* from publishing the article and directing the author and editor to secure all copies.[12] This was the first time in U.S. history that a federal judge had imposed prior restraint on the press. However, before the injunction could be made permanent, several other newspapers, including the *Chicago Tribune,* published a letter by another author with similar technical data. In September, therefore, the Justice Department ended its efforts to prevent the publication of the Moreland article.

Sneak Previews

There is one other way in which the government can enforce secrecy: by exacting agreements from employees never to divulge without prior permission information related to the national defense that was acquired during the course of employment. Such secrecy agreements, used by the intelligence agencies, cover not only former agents but also the publishers of books written by such persons. In 1972 the government successfully relied upon a secrecy agreement to obtain an injunction requiring former CIA employee Victor Marchetti to submit his manuscript about the CIA for prepublication review.[13] As a result of this decision, left standing by the Supreme Court, Mr. Marchetti's book, *The C.I.A. and the Cult of Intelligence,* was published in 1974 with 168 deletions. A subsequent suit by Mr. Marchetti's publisher to use the deleted material ended in failure.[14]

Still another way to deter unauthorized publication of defense information is to seize the profits of books published in violation of a secrecy agreement. The government took this route when former CIA agent Frank Snepp published a book about the CIA's activities in South Vietnam without submitting it for review. The Supreme Court upheld the judgment against Mr. Snepp on the grounds that the former agent had willfully

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breached his agreement with the CIA not to publish any information without clearance. "Whether Snepp violated his trust," the majority found, "does not depend upon whether his book actually contained classified information." The very fact that agents publish books about the CIA without approval weakens the agency's ability to perform its duties. Both foreign intelligence services and individual foreign agents increasingly question the advisability of working with a CIA that cannot guarantee the security of information likely to compromise them or endanger the personal safety of agents. The proper remedy, the Court concluded, was to enjoin future breaches of Snepp's agreement and to seize the profits of the book by way of a "constructive trust."[15]

All members of the Court ruling on the *Snepp* case agreed that even in the absence of a written contract, under the common law an employee has a fiduciary

Foreign intelligence services . . . question . . . working with a CIA that cannot guarantee the security of information likely to compromise them . . .

obligation to protect confidential information obtained during his employment and that a breach of this obligation could be punished by the seizure of personal profits from the exploitation of such information. This finding could open the way for the government to try to penalize any employee who publishes information about his official duties without first clearing it with his superiors. Guidelines issued in December 1980 by the outgoing attorney general of the Carter administration, Benjamin R. Civiletti, waived any intention to bring such suits unless there existed an express clearance obligation and unless the information was properly classifiable and likely to harm national security, but these were revoked by Attorney General William French Smith of the Reagan administration in September 1981.[16]

On March 11, 1983, President Reagan issued National Security Decision Directive No. 84, "Safeguarding National Security Information," which requires all employees of the government with access to classified information to sign a nondisclosure agreement as a condition of access. Persons with access to Sensitive Compartmented Information (that is, highly sensitive intelligence information) from now on will also be required to sign a promise to submit all manuscripts for prepublication review. Such agreements are to be in a form enforceable in a civil action brought by the United States.[17] Whether the threat of civil suits will discourage leaks of confidential or classified information remains to be seen.[18]

A review of applicable law yields the conclusion that except for a narrow range of cryptographic information and restricted data concerning atomic energy, and except in cases where the sole purpose is communication to a foreign power, publication of defense information probably is not prohibited. Present or former employees of the government who in peacetime publish or leak such information to the press most likely are also not subject to any criminal sanctions other than possibly the seizure of profits gained. Until the prosecution of Daniel Ellsberg and Anthony Russo for their role in the publication of the Pentagon Papers, the government had never prosecuted any leak of defense information and had relied instead on administrative sanctions, such as dismissals, or the withdrawal of a security clearance. Despite numerous opportunities, no prosecution has ever been brought under the espionage laws for the publication of secret information damaging to national security. Even in the case of the Pentagon Papers, when an attempt to prevent publication was made, the government did not rely on the espionage statutes; some justices expressed the view that the espionage laws might have authorized criminal sanctions against the newspapers and reporters involved.

When in June 1971 the *New York Times* and the *Washington Post* began publication of the Pentagon's "History of U.S. Decision-Making Process on Viet Nam Policy," the so-called Pentagon Papers, the government went to court, arguing that the president's constitutional powers as commander-in-chief and steward of foreign relations entitled him to injunctive relief to prevent "grave and irreparable danger" to the public interest. Apparently, the government decided not to invoke the espionage statutes because it believed they did not authorize an injunction against publication. Yet this attempt to achieve equitable relief without regard to existing legislation failed. When the case reached the Supreme Court, the only proposition commanding a majority was that the government had not made an adequate record to justify the injunctive relief sought.[19] The basic question—whether publication of defense information violated espionage laws—therefore was untested.

Wartime, Peacetime

Of the ten opinions, Justice White's came closest to affirming the applicability of the espionage laws. The government, he argued, had not justified the imposition of prior restraint on publication, an action that under the First Amendment bears a heavy presumption against its constitutional validity. However, that the government had mistakenly chosen to proceed by injunction did not mean that it could not have successfully proceeded in another way. Various laws imposed criminal sanctions on the publication of certain types of defense information. "I would have no difficulty in sustaining convictions under these sections on facts that would not justify the intervention of equity and the imposition of a prior restraint."[20] Justice Stewart joined this opinion, and Chief Justice Burger registered "general agreement" with Justice White's view "with respect to penal sanctions concerning communication or retention of documents or information relating to the national defense."[21] Justice Blackmun, too, stated that he was "in substantial accord" with this position.[22]

Several justices also indicated that in some extreme cases they might even support the issuance of a restraining order to enjoin a newspaper from publishing sensitive

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defense information in its possession. Quoting *Near v. Minnesota,* Justice Brennan affirmed that in times of war nobody would question the right of the government to prevent "the publication of the sailing dates of transports or the number and location of troops."[23] Justice White, joined by Justice Stewart, stated that by concurring in the decision of the Court, "I do not say that in no circumstances would the First Amendment permit an injunction against publishing information about government plans or operations."[24] Chief Justice Burger, too, rejected the view that the First Amendment asserts an absolute right of freedom of the press. Referring to the exceptions cited in *Near v. Minnesota,* he added: "There are no doubt other exceptions no one has had occasion to describe or discuss."[25] However, all of these comments represented *obiter dicta*—incidental remarks that did not provide a resolution of the important underlying question concerning the peacetime limits on the right of publishing national defense information.

The prosecution of Daniel Ellsberg and Anthony Russo might have resulted in some limited clarification of the espionage laws. Both men were indicted for violating subsection 793(e), which makes unlawful the unauthorized possession and retention of defense information. The principal event relied upon was the photocopying of the classified Pentagon Papers. Since to publish information, one must first possess it, a ruling on this indictment might have thrown some light on the legality of leaking—actions preparatory to publication. The men were also charged with stealing government property, though it was not clear whether the government regarded the information in the Pentagon Papers or the documents themselves as property. As it turned out, all these questions remained unanswered, since after the break-in at the office of Daniel Ellsberg's psychiatrist was discovered, the case was dismissed because of improper government conduct. The extent to which the leaking or publication of defense information constitutes a criminal offense under the espionage laws or other relevant statutes thus remains obscure.

Great Britain: Voluntary Compliance

The world's oldest democracy, Great Britain, has one of the most elaborate systems of official secrecy. This observation is not meant to suggest a causal connection between democracy and secrecy or to argue that the British tradition of secrecy is beyond criticism and should be copied. But although a democratic form of government requires that people be informed about basic issues of public policy, democracy does not rule out such measures as Britain's system of D (for defense) notices, which is designed to prevent sensitive information from falling into the hands of the country's adversaries.

The first British Official Secrets Act, passed in 1889, provided criminal sanctions against peacetime espionage and the unauthorized leaking or selling of information obtained by a civil servant. In 1911 this legislation was replaced by a new act that imposed penalties also on the recipient of unauthorized disclosures. Minor amendments were enacted in 1920 and 1939, but the important provisions are sections 1 and 2 of the 1911 act.

Section 1, concerned with espionage, is relatively uncontroversial except that it places on the accused the burden of proving that he did not act with a purpose prejudicial to the safety or interests of the state.

Section 2 makes it criminal for a civil servant or government contractor to communicate any kind of official information to an unauthorized person and for such a person to receive this information. "Official information" includes not only information related to national security but also any kind of data acquired in the course of employment. This section, it is generally agreed, is poorly drafted. It could lead to more than 2,000 differently worded charges, and it does not even fully clarify whether *mens rea* must be proven. The catchall provisions of the Official Secrets Act are saved from absurdity only by the requirement that prosecutions have the consent of the attorney general, and this consent has not often been given. Still, the many recipients of official information have little guidance for their day-to-day conduct of business. Moreover, the threat of prosecution puts a damper on the release of all kinds of information that cannot possibly be regarded as prejudicial to the state. Civil servants have been able to protect themselves from accusations of incompetence or mismanagement; debates on important issues have been handicapped by the public's lack of adequate background knowledge; discussion is constrained.

As Harold Wilson once put it: "It's easy to find the answers to the questions; what's difficult is to find the questions to the answers."[26]

Members of the press and the broadcasting services have the unofficial assurance that they will not be prosecuted for disclosing information concerning the national security as long as they comply with the D notices. These are issued to the newspapers and radio and television stations by the Defence, Press, and Broadcasting Committee, composed of four government officials from defense and national security departments and eleven representatives of the media. In urgent cases, the secretary of the committee, a full-time official of the Ministry of Defence, can issue a D notice on his own responsibility after obtaining the concurrence of two media members; indeed, the full committee rarely meets. The notices inform the media that the government regards a given item of information as secret and requests that it not be published.

Although compliance with the D-notice system is entirely voluntary, there have been few cases of nonobservance. The media have found it useful to have someone to consult on whether a proposed article might unintentionally harm an important national interest. During an official inquiry into the system in 1967, no media representatives suggested that it be abolished.[27]

Besides helping journalists and editors, the D-notice system undoubtedly enables them to minimize the ever-present threat of prosecution under the Official Secrets Act. Increased sensitivity to this threat, especially during the last fifteen years or so, has led to growing criticism of the act. In 1968 a committee concluded that the administrative process was surrounded by too much secrecy and recommended that the government examine the entire

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subject of "unnecessary secrecy," including a review of the Official Secrets Act.[28] The Labour government of the day reacted defensively, but in 1970 the Conservative election manifesto promised to examine the operations of the act. In 1971 the new Conservative government appointed a committee under Lord Franks to review section 2 of the Official Secrets Act of 1911.

The report of the Franks Committee was published in September 1972. Its verdict: Section 2 was "a mess." People could not know what it meant or how it operated in practice or what kinds of action involved a risk of prosecution. The committee recommended that section 1 be replaced by an espionage act and section 2 by an official information act. The criminal sanctions of the act were to apply to four types of official information:

- Classified information relating to the defense or security of the realm or to foreign relations or the currency, the unauthorized disclosure of which was likely to cause serious injury to the interest of the nation. This category was to include information concerning the armed forces, weapons, military equipment, research and development of weapons or equipment, defense policy, military planning, the intelligence services, negotiations of treaties with other powers, and the like.
- Information likely to assist criminal activities or to impede law enforcement.
- Cabinet documents, so as to safeguard the collective responsibility of the cabinet.
- Documents entrusted to the government by a private individual or firm.

. . . close-up pictures of the gore of war on the nightly TV screens, for example, are not always conducive to winning.

The Franks report rejected the suggestion that the disclosure of classified information made in good faith and in the public interest was a valid defense against the charge of having caused serious injury to the nation. Damage to the national interest, it declared, does not depend on bad intentions. "It is caused when certain kinds of official information get into the wrong hands. It makes no difference whether the information reached those hands as a result of espionage or of leakage."[29] Before a prosecution for the disclosure of information, the appropriate minister should determine that the information was properly classified at least "Secret" or "Defense—Confidential." The idea of involving the courts in deciding the fact of injury to the nation was turned down. The leakage of other official information was to be dealt with through administrative, not criminal, sanctions.

The mere receipt of official information should no longer be an offense, the Franks report said, though further communication of classified information was to remain unlawful if done with awareness of the secret nature of the information. "If a civil servant has failed to protect a secret, there is no justification for the view that a citizen who thereby comes into possession of that secret, and who knows that it is a secret, should be free to compound the failure of the civil servant, and to harm the nation, by passing on the secret as he pleases."[30]

The proposals of the Franks Report were criticized as both too radical and too conservative. In the election campaign of 1974 the Labour party promised to replace the Official Secrets Act with a law that incorporated the principle of freedom of information. However, by the time the Labour government got around to making concrete proposals, pressure had grown for legislation that would establish a clear right to know. A bill incorporating this idea was introduced in 1978, but before Parliament could take final action, the government fell and Parliament was dissolved. A new proposal to replace section 2 of the Official Secrets Act was introduced in late 1979 with the backing of the new Conservative government. Critics called this bill worse than section 2 itself. But then Andrew Boyle's *Climate of Treason* was published. It led to the revelation that Sir Anthony Blunt, former keeper of the Queen's pictures, was once a Soviet agent. Under the government bill, it was now pointed out, the publication of that book and all public discussion of the Blunt case would have been a criminal offense. The government thereupon withdrew its bill, and no new legislative initiative has had its backing since then.

The Official Secrets Act thus remains British law. As one critic of Britain's continuing tradition of government secrecy has put it: "Britain is about as secretive as a state can be and still qualify as a democracy."[31]

After the conclusion of the Falklands conflict in 1982, several well-known British journalists complained about censorship. Others have argued that there are some things more important than the people's right to know and that close-up pictures of the gore of war on the nightly TV screens, for example, are not always conducive to winning. "We British," a lead writer for the *Daily Telegraph* has observed, "practise the residual secrecy of an old empire linked up with the new bureaucratic style of a country enmeshed in civil servants. It isn't something to be idealistic about, but arguably it makes the courage of soldiers and the will of a strong Prime Minister just that degree more likely to achieve their ends and gives them a breathing space in which to do what is necessary."[32]

Sweden: Certain Sanctions

Sweden is another democratic country that insists on preventing the publication of certain types of defense information. A tradition of open government was established by the Freedom of the Press Act of 1766, which is part of Sweden's constitution. Under this law, amended in 1937, all government papers, unless specifically exempted by the act, are open for public inspection. A system of appeal and review is available when access is denied. The law also incorporates the Secrecy Act, which provides criminal sanctions for the publication of matters concerning foreign policy or defense that if disclosed could threaten national security. Furthermore, the es-

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pionage section of the penal code authorizes the prosecution of anyone "who, with the intent of aiding a foreign power, without authorization, obtains, transmits, gives, or otherwise reveals information . . . the disclosure of which to a foreign power can bring harm to the defense of the Realm." This law also applies to a person who, with like intent, "without authorization produces or is concerned with a writing, drawing or other object containing such information."[33]

The seriousness that Sweden attaches to protecting information was apparent in the so-called IB affair in 1973. Helped by leaks from a civil servant, two left-wing journalists that year prepared and published a series of articles about the Swedish Information Bureau. The articles gave the names of IB officials, the addresses of IB offices, and information about cooperation between the IB and the security services of other countries, such as the United States, Great Britain, and Israel. Contrary to expectations, the informant and the two journalists were charged not under the Secrecy Act but under the espionage law. They were tried *in camera* and sentenced to jail terms; a court of appeal affirmed that they had acted with an implied intent to aid a foreign power within the meaning of the espionage statute.[34]

The verdicts in the IB affair drew considerable criticism. A commission of inquiry was appointed to consider changes in the Freedom of the Press Act. The revised law, which came into force in 1978, makes all prosecution of the press a matter to be decided by the attorney general. In 1981 a new secrecy act went into effect; it expands the scope of secrecy and tightens the law with regard to unauthorized leaks by civil servants.

West Germany: Militant Democracy

A third democracy that has wrestled with the problem of reconciling freedom of the press and protection of state secrets is the Federal Republic of Germany. Article 5(1) of West Germany's constitution, the *Grundgesetz,* or basic law, affirms the right of the people to unhindered information, freedom of speech, and freedom of the press, and it rules out censorship. But public speech, like all rights of the person, can be limited by general laws that seek to protect the public interest. The importance attached to the defense of the democratic order is manifested by West Germany's commitment to the principle of "militant democracy." Unlike the Weimar Republic, which is held to have succumbed in part because its opponents were able to use their civil rights to destroy the democratic constitution, West Germany asserts the authority to deny freedom to the enemies of freedom. The principle of militant democracy does not directly touch upon the protection of official secrets, but it is a significant aspect of West Germany's political culture.

According to section 61 of the civil service law, civil servants are required to keep secret all information acquired in the course of their official duties. A violation of this provision is punishable with up to five years' imprisonment. However, this sanction can be invoked only if the information involved jeopardizes important public interests. A similar qualification is attached to the definition of state secrets—"facts, objects or knowledge that are accessible only to a limited number of persons and that must be kept secret from a foreign power in order to avert the danger of serious damage to the external security of the Federal Republic of Germany." The disclosure of such a secret is a criminal offense if the offender reveals it to a foreign power, allows it to get into the hands of unauthorized persons, or publishes it to disadvantage the nation or favor a foreign power. Again, the disclosure is punishable only if it creates a danger of serious damage to the external security of the country. Moreover, the civil servant incurs neither disciplinary nor criminal liability if after exhausting all other remedies, such as informing his superiors or his representative in the legislature, he reveals information concerning unconstitutional activities of his government—activities that undermine the democratic order or violate treaty-imposed restrictions on German armaments.[35] Presumably, this provision would also protect whistle-blowing on preparations for a war of aggression, forbidden by the basic law, even though in the age of preemptive wars it may not be easy to determine whether an attack on another country constituted aggressive warfare.

Until 1968 the law concerning treason did not distinguish between the intentional betrayal committed by the agent of a foreign power and the disclosure of a state secret by a journalist. The need for such a distinction was driven home by the *Spiegel* affair, which rocked West Germany in October 1962. In an unprecedented legal maneuver, the publisher and several leading editors of the mass-circulation magazine *Der Spiegel* were arrested for publishing an article on the state of readiness of the German armed forces. The article, it was alleged, made use of classified information, and the persons responsible for its publication were therefore to be charged with the crime of treason. Following an outcry of protest all over the country, this proceeding was aborted. A member of the Bundestag who was suspected of having given *Der Spiegel* a classified document could have been charged with violating Section 353c of the criminal code, but this indictment, too, was never pressed.

Section 353c was abolished in 1979. Journalists had referred to it as the "muzzle paragraph," since it provided a prison term of three years or a fine for anyone who communicated or published classified information and thereby endangered important public interests. A violation, critics pointed out, was triggered by the very fact of publishing classified information, whether or not the information was properly classified or even involved an important secret. Now modified, the law would reach a journalist only if he published a classified document given to him by a civil servant and if he had been formally informed of his obligation to keep it secret.

Prosecutions under the old law had been extremely rare; they are even less likely under the new.[36] Moreover, a journalist could still plead that the information, although classified, concerned an important aspect of public life and that its disclosure therefore was justified on account of the constitutionally guaranteed right of citizens to be informed—as well as by the guarantees of freedom of speech and press. That was the clear implication of a supreme court ruling in the aftermath of the

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Spiegel affair. It is generally recognized that a judge who had to weigh the relative importance of these rival public goods in order to decide the justification of "journalistic treason" would face an extremely difficult and delicate task.[37] To what extent, for example, could an article on the stationing of middle-range missiles in West Germany go into details about the location, reach, and power of such missiles? How much technical, possibly classified, detail does a journalist need to write intelligently about these complex and yet highly important issues of foreign and military policy so that people can form opinions about them? At what point does a public discussion of military strategy and tactics in the age of atomic weapons aid a foreign power, if only by demoralization from harping on the disastrous consequences of a nuclear exchange? These questions, of importance for other countries besides West Germany, await answers.

". . . when everything is classified, then nothing is classified, and the system becomes one to be disregarded by the cynical or the careless . . ."

Several facts of American political life greatly complicate matters. There is, first, the ever-present problem of overclassification. The basic need to withhold from the public certain kinds of information is generally accepted. It is elementary, Justice Stewart pointed out in the Pentagon Papers decision, "that the successful conduct of international diplomacy and the maintenance of an effective national defense require both confidentiality and secrecy. Other nations can hardly deal with this Nation in an atmosphere of mutual trust unless they can be assured that their confidences will be kept. And within our executive departments, the development of considered and intelligent international policies would be impossible if those charged with their formulation could not communicate with each other freely, frankly, and in confidence. In the area of basic national defense the frequent need for absolute secrecy is, of course, self-evident."[38] Yet secrecy has often become an end in itself.

Ever since the beginning of the modern security classification system in World War I, bureaucrats have tended to play it safe and overclassify, prolonging the period of restriction and placing roadblocks in the way of access. Some experts—former high officials of the executive branch—who have testified about this problem before the Congress have estimated that as much as 75 percent of the documents now classified do not require protection against disclosure.[39] Such abuse undermines the credibility of the entire program. To quote Justice Stewart again: "For when everything is classified, then nothing is classified, and the system becomes one to be disregarded by the cynical or the careless, and to be manipulated by those intent on self-protection or self-promotion."[40]

A system of classification that lacks integrity is a direct cause of leaks. Government employees, frustrated by the amount of secrecy under which they have to operate, feel justified in leaking or otherwise compromising classified information. The leaking of the Pentagon Papers to the press by Daniel Ellsberg is the best-known example of such a breach of trust, but there have been numerous other cases where government employees decided to disclose important defense or diplomatic information. Was the information really in need of classification? Did these disclosures help create a more enlightened citizenry, better equipped to judge issues of public policy and select public officials? These questions are probably somewhat beside the point. Apart from the exposure of manifest corruption or illegality, it is difficult to run an orderly government if each employee can function as the public conscience and take upon himself the right to disregard the rules. Individual employees may not know why secrecy is important. All too often such disclosures, even those made with the best of motives, have ruled out a foreign policy option or jeopardized ongoing policy.

The problem of preventing or tracking down leaks of classified information by low-level government employees is extremely difficult. Another complicating element is the widespread practice by top officials of declassifying information they want to leak. These authorized leaks take several forms. The most frequent technique is the off-the-record press briefing or "backgrounder," which is filtered to the public under the rubric "according to informed sources." The purpose may be to float a trial balloon, testing public reaction, or to justify a certain policy or fortify one's position against a rival bureaucrat. High officials can also disclose confidential or classified information in memoirs published after they leave office. All of this leads to charges of a double standard and further weakens confidence in the integrity of the classification system. As one critic has put it, probably with only slight exaggeration: "Authorized leaking makes a mockery of information law because policy-makers enforce arbitrary criteria against others while being themselves engaged in systematically releasing self-serving news on a not-for-attribution basis."[41]

Briefing or Leaking?

Some officials draw a distinction between briefing the media (a good thing) and leaking to the media (a bad thing). Others honestly acknowledge the difficulty of such a differentiation. "You know the difference between leaking and briefing," James Callaghan, Labour's Home Secretary, once said. "Briefing is what I do, and leaking is what you do."[42] One can also argue that when a high-level official engages in instant declassification, he is merely doing that to which he is entitled by law, for the authority to classify includes the right to declassify. But such officials should have some perspective on the results of such disclosures.

Several attempts to put a criminal sanction on the communication or publication of classified defense information have ended in failure. In 1957 the Commission on Government Security recommended "that Congress enact legislation making it a crime for any person willfully

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to disclose without proper authorization, for any purpose whatever, information classified 'secret' or 'top secret,' knowing, or having reasonable grounds to believe, such information to have been so classified."[43] A bill that did not require a specific intent to injure the United States was introduced but failed to win much political support. Similar proposals were advanced during the attempted recodification and revision of the federal criminal code in 1973. One of these bills, S.1, made the publication of national defense information explicitly criminal only in time of war. The proposal of the Nixon administration, S.1400, was more sweeping and, as critics contended, would have paralyzed most newspaper reporting on national security affairs.[44] Prolonged efforts to work out an acceptable compromise failed, and the federal criminal code reform bill finally died in 1982.

Poking through the Files

The Watergate scandal and the attendant abuses in the name of national security have undoubtedly created great difficulties for the enactment of legislation to protect the nation's security interests. Passage of even a modest proposal—the law to protect the identities of U.S. intelligence agents—required the expenditure of a lot of political capital. The United States today denies its intelligence agencies the secrecy granted to physicians, lawyers, clergymen, grand juries, and income tax returns; it is the only country in the world that gives foreign intelligence agencies, not to mention anyone else, a legal license to poke into the files of its intelligence organizations. The willingness of our allies' intelligence services to share their information and the willingness of individuals to risk their lives and reputations to help us have seriously diminished, yet bills to exempt the intelligence agencies from the coverage of the Freedom of Information Act have made no headway. The public has developed a right-to-know mentality, and journalists consider any information, no matter how sensitive, fair game. Nevertheless, it would be the course of political prudence to consider and take action on the thorny problem of protecting national defense secrets in a period of relative domestic calm—before a major disaster whips up hysteria and leads to an overreaction.

Two types of conduct that are potentially damaging to national security are not explicitly covered by existing law. The first is the unauthorized disclosure by present or former government employees of classified defense information acquired during the course of their employment. Such disclosure is now criminal only if made to an agent of a foreign power or a member of a communist organization or if it involves a narrow range of cryptographic information or data concerning atomic energy. The espionage statutes that prohibit the disclosure of national defense information to anyone not authorized to receive it lack a *scienter* requirement and generally are so broadly phrased that they are unlikely to pass the test of constitutionality.

A new, more comprehensive statute aimed at the unauthorized disclosure by government employees of defense information should encompass all information properly classified secret or top secret. Those charged with violating such a law should be able to challenge in court the propriety of classification. However, this review should not be *de novo* but should be limited to a determination by the judge that the government, acting through an authorized official, had correctly applied its own rules concerning the protection of sensitive defense information. The judge might also be given the right, as in West German law, to quash prosecution if the classified information concerned illegal activities.

Until 1980 the government often hesitated to press such prosecutions lest defendants, invoking the discovery and other rights under the federal rules of criminal procedure, obtain additional sensitive material and disclose it in the courtroom, thereby compounding the injury done national security by confirming the information's authenticity and significance. Prosecutors viewed this tactic as similar to blackmail because it left them the choice of augmenting the initial damage or abandoning prosecution. This "graymail" problem was largely solved by the enactment of the Classified Information Procedures Act in October 1980.[45] Under this law, a judge can hold *in camera* pretrial hearings on the use of classified information, and he can prevent the disclosure of classified data given the defendant by the government.

It would probably be unwise, as some have suggested, to grant judges the unfettered discretion to decide whether the information, though properly classified, concerned an important aspect of public life and had such significance for public debate that its disclosure was in the national interest. Judges have traditionally shied away from encroaching on the executive's control over foreign and military policy, and this reluctance appears especially justified when the issue is the determination of a disclosure's probable impact on the nation's security. Such determinations, like all executive decisions concerning foreign policy, Chief Justice Burger correctly pointed out in the Pentagon Papers case, "are delicate, complex, and involve large elements of prophecy. They are and should be undertaken only by those directly responsible to the people whose welfare they advance or imperil. They are decisions of a kind for which the Judiciary has neither aptitude, facilities nor responsibility and which has long been held to belong in the domain of political power not subject to judicial intrusion or inquiry."[46] A test of the factual basis of the executive's claim of risk or damage would involve a vast and complicated area of facts and contingencies relating to foreign policy that the judiciary cannot be expected to master.

Chronic Overclassification

A statute criminalizing government employees' unauthorized disclosure of classified defense information will be workable only if the executive branch makes substantial progress in controlling the chronic problem of overclassification. Then it will be possible to argue that the revelation of secret or top-secret defense information constitutes the kind of damage to the security of the nation that justifies criminal penalties. To safeguard against frivolous prosecution, both the secretary of the department concerned and the attorney general should be required to authorize prosecution. Finally, to answer

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the charge of selective law enforcement, public officials will have to restrain their habit of engaging in instant declassification. All this, undoubtedly, is a tall order and will require considerable change in current practice. However, the harm caused by certain kinds of leaks, currently left unpunished, is great enough to call for some special efforts. Moreover, failure to protect secrecy can result, paradoxically, in an increase in secrecy: "If the legal order legitimates the view that respect for secrecy is only a matter of political commitment, the likely response of the decision-makers will be to make secrets available to only a few trusted subordinates. Thus, the law's failure to give weight to security considerations will augment the tendency to centralize power into fewer hands."[47]

The second type of conduct that should be covered by new law is the publication of leaked national defense information. Currently, the only publication that is clearly prohibited aims specifically at informing the enemy in time of war, or has the main purpose of identifying intelligence agents, or concerns codes, a narrow class of cryptographic information, and restricted data on atomic energy. The press in a democratic society plays an extremely important role in informing the public and lawmakers about public policy, a role as essential in matters of foreign policy as in other areas of national life. And yet our society also has a clear need to protect the secrecy of certain types of defense information. Should the press be entitled to disregard this need once it has managed to get hold of such sensitive information? The answer that Britain's Franks Committee fashioned bears repeating: "If a civil servant has failed to protect a secret, there is no justification for the view that a citizen who thereby comes into possession of that secret, and who knows that it is a secret, should be free to compound the failure of the civil servant, and to harm the nation, by passing on the secret as he pleases." Journalists, too, are citizens; they should have the same obligations.

. . . most segments of the media today treat as a scoop any information, no matter how sensitive, that comes their way.

Accepting this view in principle, Professors Edgar and Schmidt have suggested that Congress set strict limits to prohibitions of unauthorized disclosure and publication of national defense information. "Only very narrowly drawn categories of defense information of great security significance and, in most cases, little import for public debate, should be prohibited from public revelation. Information about cryptographic techniques, intelligence-gathering operations, the design of secret and vital weapons systems, nuclear armaments, and perhaps other narrow and concrete categories of defense or intelligence information are appropriate subjects, in our opinion, for prohibitions on peacetime press disclosure."[48] But could Congress formulate an adequate catalogue of protected defense information? Is Congress any better equipped than the judiciary to foresee the possible harm that could come from the publication of certain kinds of secrets? Could Congress make a list of prohibited items that would enable journalists, prosecutors, judges, and juries to know with certainty what may not be published? The danger is that any such list would be either too specific and therefore lacking in flexibility or so general that it left considerable ambiguity of interpretation.

Defenders of the press point to the Bay of Pigs episode in 1961 as the kind of case where the press should have gone ahead and published whatever it knew to prevent a disastrous policy failure. More recently, the press has published details about CIA covert operations in Central America, especially against Nicaragua. Presumably, the journalists and editors responsible for these articles felt entitled to publicize these operations because they questioned their wisdom. Information about this covert effort is said to have come from intelligence officials and apparently also from those in the Congress, the Defense Department, and the State Department who are worried about the CIA's role in Central America. "Some officials fear," the *New York Times* wrote in December 1982, "that the activities may aggravate chronic political instability in the region and lead to eventual direct military involvement there."[49] It is possible that the CIA deliberately revealed information about these covert operations to exert pressure against Nicaragua. On the other hand, some of the information may have been leaked by people in the Reagan administration who are critical of this policy. If the latter, should the press be free to compound the impact of a lack of cohesion among decision makers by publicizing the leaked information? Does the importance of public debate on this issue justify disclosure of validly classified information? Who should decide?

Permanent Adversaries

The problems raised would be less serious if one could be sure that the media were prepared to assume responsibility for protecting legitimate needs of national security. Unfortunately, this assumption is not universally valid. The United States was able to fight World War II without compulsory censorship, but the consensus on goals between government and press that made this possible no longer exists. The willingness of the media to publish leaks about such delicate issues as the Glomar Explorer mission to lift a sunken Russian submarine or U.S. relations with Pakistan and Jordan in several recent crises indicates that most segments of the media today treat as a scoop any information, no matter how sensitive, that comes their way. They are no longer merely occasional critics of government but permanent adversaries. Whatever little restraint national newspapers like the *New York Times* or the *Washington Post* are still prepared to practice cannot be expected from papers like *Ramparts*, the *Madison Press Connection*, or the *Daily Californian*, all of which question the very need for national secrets.

The difficulty of obtaining the voluntary cooperation of the press in protecting sensitive defense information

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was illustrated by a recent episode in Washington. On December 14, 1982, the Defense Department scheduled a special press briefing about Soviet military capabilities. The briefing was designed to convince reporters that the government had solid evidence of the grave military threat to the United States and its allies in Europe posed by the Soviet Union's growing military might. The thirteen reporters present were asked to sign a secrecy agreement, but none were willing to do so. The original intent, it appears, had been to protect merely the sources of the information—photographs taken by high-flying American reconnaissance aircraft or satellites, for example—but the wording of the agreement that was in fact given to the reporters was more sweeping and would have prohibited all dissemination of the information. For the *New York Times,* apparently, any kind of restraint was unacceptable. The paper declined to send a correspondent to the briefing; its managing editor, Seymour Topping, explained the decision by saying, "The *Times* does not enter agreements that bar a reporter from sharing information with readers or responsible editors."[50]

To create a new political climate regarding the treatment by the press of U.S. foreign and military policy, I favor legislation prohibiting the publication of defense information classified secret or top secret. The media should be vigorous in airing general issues of policy, but they should not presume to judge what kind of data require protection against disclosure. That decision must be made by those responsible and accountable for foreign policy, and their judgment, unless patently arbitrary, should be binding. The only exceptions to this rule should be those mentioned earlier in connection with the disclosure of classified information by present or former government employees. Recourse to prior restraint by an injunction against publication should be limited to situations of reckless disregard of serious injury to the national security, certified as "journalistic treason" by a committee of experts. Such a committee, to be appointed in equal parts by the Congress and the president, should be composed of distinguished former foreign policy, defense, and intelligence officials with full access to classified information. Their recommendations would not be legally binding, but they would help judges determine the likely consequences of a breach of secrecy.[51] There is reason to believe that such legislation would not conflict with the First Amendment, which does not require an unlimited right of public speech and publication.

There is also the problem of unclassified technical and scientific data of potential military value to the Soviet Union and other foreign nations. Defense and intelligence officials have warned that the Soviets for some time have conducted a highly orchestrated effort to gather technical information to enhance their military capabilities. The problem here again is to avoid all-or-nothing approaches. The unfettered exchange of ideas is an important element in the scientific edge that this country enjoys over the Soviet Union in most fields of study; a continuation of that freedom of communication in scientific research is essential to further progress. However, some screening of publications dealing with devices and technical plans that can quickly be applied to military or industrial use is perhaps indicated. It might be possible to use the British D-notice system or to develop a modified version of the voluntary system of control that functioned so well in this country during World War II. Beginning in 1941, the government issued the Code of Wartime Practices, which identified information that might be helpful to the enemy and should not be published without prior consultation. Compliance with this system was voluntary, yet there were no instances of intentional violation. The major factor in the success of this program apparently was that it was operated in a manner that won the respect of the press.[52] Could the scientific community today be persuaded to muster a similar spirit of cooperation and accept the need for some curb on the free flow of unclassified scientific information? That is an open question.

Legal systems work when the law is perceived as fair, just, and necessary. In the final analysis, therefore, the actual results of the legislation proposed here will depend on basic political attitudes and shared values that can be influenced by law—and most men respect that which is legal. But the results will also depend on nonlegal factors. Britain's D-notice system works because there exists a reservoir of basic trust between government and the governed, including the media. Whether such a consensus on common national aims can be restored in the United States will have as much significance for the better protection of the nation's secrets as the enactment of new legislation.

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4. Some publications, such as *Counter Spy,* may have as their aim the infliction of damage on U.S. foreign policy, but section 794(b) will not reach them except, at best, in time of war. Whether it would be possible to prove the requisite intent to aid the enemy or whether the presence of other intents, such as informing the public, would be exculpatory is an open question. To prevent these kinds of complications, section 301(c) of the Intelligence Identities Protection Act of 1982 (Public Law 97-200, 96 Stat. 122, 50 U.S.C. 421) uses in place of the intent standard a supposedly more objective standard requiring that the disclosure be "in the course of a pattern of activities intended to identify and expose covert agents and with reason to believe that such

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activities would impair or impede the foreign intelligence activities of the United States."

5. 312 U.S. 19 (1941).
6. Ibid., pp. 28–29. Among the factors to be considered, another court ruled in 1962, is whether the information involved is classified. *United States v. Soblen,* 301 F.2d 236 (2d Cir.), cert. denied, 370 U.S. 944 (1962). But how important should the mere fact of classification be in establishing that the information concerned the national defense? Should the jury regard only information *properly* classified as defense related?
7. 151 F.2d 813 (2d Cir. 1945), cert. denied, 328 U.S. 833 (1946).
8. *Gorin v. United States,* 312 U.S. 19, 27 (1941).
9. A reading of the culpability standard that stresses what the obtainer of the information thinks will be its principal use would reconcile the broad language of the statute with what we know about Congress's objection to a blanket prohibition on publication. An opinion issued in 1942 by Attorney General Francis Biddle held the transfer of defense information to our European allies under the Lend-Lease program not to constitute a violation of the espionage statutes: "Under the circumstances here involved, the primary advantage sought is that of the United States itself; the conferring of an advantage upon an allied nation is but a means to that end." 40 Opinions of the Attorney General 250 (1942), cited by Edgar and Schmidt, *op. cit.,* p. 998.
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Thatcherissima

The Politics of Thatcherism

The paradox of the general election victory that has given Mrs. Thatcher a second term as prime minister is that it marks the death of the social democratic consensus—the dominant force in British politics for a quarter of a century—and yet it also opens up the prospect of a new dispensation in which the Social Democratic party, and not Labour, will be the natural alternative to the Conservatives. If this consensus is established, its terms of reference will have been determined by Mrs. Thatcher's victory, which is likely to channel politics into a wholly different direction from that in which it has flowed since 1945.

This has been a watershed election, and its significance cannot be appreciated without reference to the historical background. In 1945 the Labour election landslide, which turned Winston Churchill out of office in the moment of victory, making Clement Attlee prime minister instead, changed the face of British politics. The war had unleashed great social change in Britain, and there was a widespread conviction that the country ought not to return either to the hierarchical social order that prevailed in 1939 or to the high levels of unemployment that existed then in the aftermath of depression. The political instinct of 1945 was that the people who had given their lives and energy to the war deserved a New Deal, and the Conservatives, who had been in power for fourteen years, did not seem equipped to provide one. They were seen as being too closely associated with the old order, in which the social and economic gulf between the well-off and the poor was too wide and deep to be tolerable in postwar conditions.

Even so, the Labour party would almost certainly have been unacceptable to the electorate in 1945 but for one important factor. Its leaders had served in the wartime coalition with Churchill. They had proved themselves fit for power in war; why, therefore, should they not be fit for power in peace? After all, they had something new to offer, and the Conservatives were led by a statesman whose personal qualities were associated more with the drama of war than with ideas for postwar social and economic reconstruction. The patriotic service in the wartime coalition of Attlee and other Labour leaders had obliterated the memories of Labour's record in the prewar years, when its patriotism was questioned because of the party's resistance to rearmament and the influence of its pacifist wing—not to mention the last Labour government's collapse in the economic crisis of 1930.

So the country was in the mood for something new, Labour seemed able to provide it, and the nation in 1945 gave the Labour party its first-ever overall parliamentary victory in order to obtain social amelioration, in much the same spirit as it had voted for the Liberals in the landslide of 1906. It was not so much a vote for socialism in the technical sense as a vote for a more equitable society. Of course, socialism was part of the package. There was to be nationalization of some basic industries and utilities—the mines and the railways among them. But the condition of the miners had long seemed in need of remedy, there was little sympathy for the coal owners, and the railways were in need of capital that the state could provide.

Nationalization could therefore be tolerated within limits, but it was not Labour's most attractive stock in trade. What the nation particularly wanted was the promised welfare state, with a comprehensive "free" (or largely tax-based) national health service and greatly improved pension and other social benefits. In fact, the probability is that we should not have had much less of a welfare state if Churchill had been returned, since social democratic ideas, along with Keynesian economics, had taken deep root among the opinion makers who were listened to by all parties.

As it was, the Attlee government quickly became unpopular. Nationalization did not seem to provide better consumer services, and the public did not enjoy Labour's bureaucratic political temperament. Increasingly, people suspected that Labour politicians liked controls and rationing for their own sakes. There was a longing for freedom, and in consequence, the Conservatives, promising to set the people free, were returned in 1951. Controls were dismantled, markets were reopened, the economy was freed, and the nation increasingly prospered. But the Labour-created welfare state was accepted, and so was the mixed economy. The Conservatives also made no serious attempt to reverse state ownership that already existed.

A new political consensus was therefore established in which both the Conservative and the Labour parties acquiesced. It was based on the

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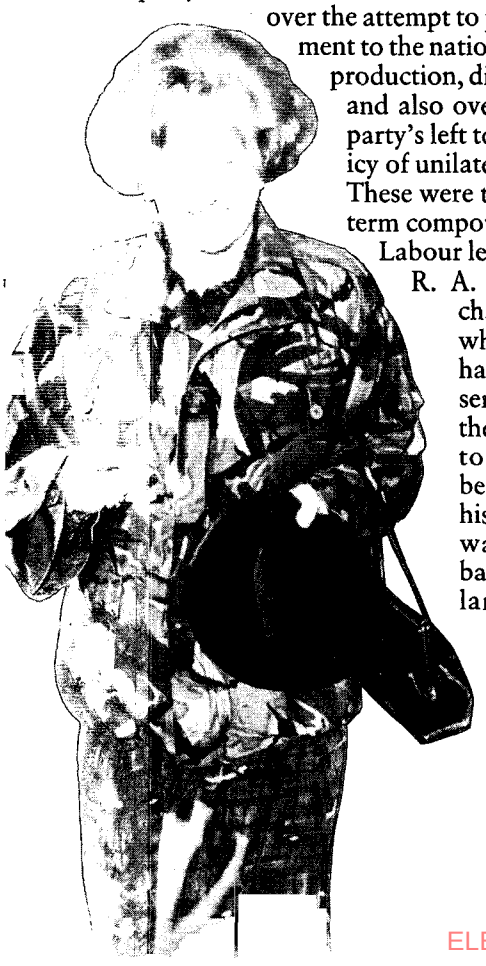
welfare state, the mixed economy (though the parties differed about where the lines should be drawn between the private and the public sectors), and Keynesian economics, which were nowhere questioned. Not least, there was a bipartisan defense and foreign policy. In other words, it was a consensus that in today's terminology could not unfairly be described as social democratic, since if the Conservatives felt obliged to accept the basis of the new order established by the Attlee government, the Labour party's leaders increasingly came to appreciate that their party must largely renounce socialism in its traditional sense if they were to be eligible for power.

For thirteen years the Conservatives were in government. The nation prospered, but beneath the surface, economic problems began to accumulate. On the least sign of a rise in the unemployment figures, government money would be spent to keep the economy moving, thus gradually building into the system a tendency toward inflation, the principal outward symptom of which was the recurrence of balance-of-payments crises. Still more serious, perhaps, was the extent to which the preservation of jobs at any price led to a failure to modernize and streamline industry, which inevitably reduced British competitiveness. Toward the end of the thirteen years, the Conservatives increasingly turned to policies of indicative planning, which were then fashionable in Europe generally, to achieve growth while trying to control inflation by recourse to incomes policies for pay restraint.

Meanwhile, on the other side of the political fence, the leaders of the Labour party came into conflict with their left wing as they tried to divest the party of its socialism and establish it as something like the Social Democratic party of the West German sort. A bitter conflict ensued over the attempt to jettison Labour's commitment to the nationalization of the means of production, distribution, and exchange, and also over the campaign from the party's left to commit Labour to a policy of unilateral nuclear disarmament. These were the years of Butskellism, a term compounded of the names of the Labour leader, Hugh Gaitskell, and R. A. Butler, the Conservative chancellor of the exchequer whose liberalizing influence had been dominant in Conservative domestic policy in the postwar years. Thanks to Gaitskell's success in beating off the attacks from his own left, Harold Wilson was able to lead Labour back to power in 1964 on a largely social democratic ticket. Labour sought to solve the nation's problems not by more nationalization but rather by increased planning, taking the unions and industrial management into consultation with the government, employing Keynesian economics, and stimulating increased growth to pay for a bigger and better welfare state.



Margaret Thatcher, clad in battledress, is accompanied by Sir Timothy Creasey in this August 1979 photo.

More egalitarian policies, especially through taxation, would eliminate conflicts in society. The Wilson government would also be solid for the Western Alliance, the unilateral nuclear disarmers in the Labour party having been outflanked.

In practice, however, the social democratic recipe in its new and more concentrated form did not produce palatable government. The Wilson years from 1964 to 1970 were a time of repeated economic crisis, and it was increasingly clear that the unions could not, or would not, deliver the pay-control policies on which the government depended. Far from producing industrial peace, the labor unions were frequently in conflict with the government.

In 1970 the Conservatives were returned under Edward Heath, promising a much more disciplined approach to the economy, and with an apparent commitment not to spend public money rescuing industrial lame ducks. But under threat of rising unemployment, it began to overspend. It was also caught by the beginnings of the oil price explosion. So it, too, eventually had recourse to a policy for controlling wages, and when it did not succeed by voluntary agreement, it sought to impose pay control by statute. Meanwhile, the mood of the Labour party had moved rapidly to the left. There was increasing infiltration of Labour's organization by Marxists; the old moderates were on the defensive. The power of the left was then decisively augmented in 1974, when the Heath government, plunged into industrial strife with the unions, called a general election and was defeated. The Labour party came back to power under Harold Wilson (though without a clear majority) in the tide of a humiliating defeat of the Tory government by union power and left-wing militancy.

Though it was still, nominally, committed to the social democratic approach (and so far as straightforward nationalization was concerned, inhibited by its lack of a clear majority), the Wilson government of 1974 was in a very different position than in 1964. It came in as the ally and, in a sense, the agent of the left-wing unions, which had just demonstrated their power to bring a government to heel. The old social democratic consensus was now no more than a charade. Though planning and consultation remained the government's technique, the basis of its policy was the so-called social contract, by which the government spent public money as the unions demanded in return for an agreement to restrain pay demands. The outcome was to build further inflation into the economy, restrained only temporarily by incomes agreements, which in due course broke down—as they had always done before.

As the infiltration of the Marxist left into the Labour party continued, local constituency organizations fell into the control of hard-line extremists who sought to make MPs accountable to them rather than to the much

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more moderate sentiment of Labour voters. The Labour conference had already opened the floodgates to the left by abolishing the proscribed list of Marxist (whether Trotskyist or Leninist) organizations to which members of the Labour party had not been permitted to belong. The final drive had begun to put the left in control of the choice of parliamentary candidates, the election of the party leader (hitherto the prerogative of the parliamentary party), and the contents of the manifesto. In the winter of 1978–79, the Labour government (since Wilson's retirement, under James Callaghan) was discredited by the irresponsible and damaging strikes of public-sector workers against its pay policy. So in 1979, Mrs. Thatcher was elected as Conservative prime minister with the old political consensus already virtually dead.

Her election to replace Edward Heath, the consequence of a revolt of Conservative backbench MPs, was itself a symptom of this fundamental change. Whether or not it was consciously understood, her election symbolized the death of the old Butskellite social democratic consensus. It had been broken in stages by Labour leftists under several governments, the unions not being permitted to deliver the only conditions on which it could possibly have survived. In the Tory party there had grown up an increasing understanding that the Neo-Keynesian policies—whereby governments printed money to cover spending and then hoped by pay policies to stave off the inflationary consequences—would not work, and that above all an end must be made of government's financial weakness, which enabled the trade unions virtually to dictate policy.

The record of Mrs. Thatcher's government in her first parliament shows a steadfast (after a faulty start) attempt to get public spending and borrowing down, a refusal to respond to rising unemployment by inflationary spending, a start on privatizing part of the public service, and a courageous refusal to capitulate to union demands to purchase industrial peace. The prime minister often had to act against many of her own colleagues, for her cabinet, largely inherited from Mr. Heath, contained a number of ministers who found it hard to renounce the old principles to which both parties had adhered: When unemployment rises, inflate the economy, and when a union in the public sector strikes, intervene with more government money to buy peace. In 1981 especially, Mrs. Thatcher faced much opposition to spending restraints from cabinet ministers who feared that if she did not inflate to try to create jobs, the Conservatives would be driven from office in the next election.

A New Consensus

But her second election has come and gone, and she has not been punished for sticking to her guns. On the contrary, she has been rewarded by a resounding victory. The so-called Wets (the rearguard defenders of Neo-Keynesianism as the way to win votes) have been discredited, and their last significant figure, former Foreign Secretary Francis Pym, has been removed from the cabinet. The Wets have had to come to terms with the willingness of the electorate, when confronted by honest leadership, to accept the realities. Votes do not have to be bought by bread-and-circuses inflationary policies. This election has shown that the British people have instinctively grasped the historical significance of the turning point they had reached. They knew that the old postwar consensus was dead, broken by Labour militancy. They sensed that neither jobs nor prosperity was likely in the long run to be assured by inflationary borrowing; they realized that the long-term consequences of inflation are social confusion. They were confronted by two real choices: to continue with Mrs. Thatcher or to accept the kind of Labour party that in every previous election since the war they would never have been willing to accept. It was a stark choice, but I believe there was never any doubt about what would be done by an electorate that both understood the nature of the change in the Labour party and accepted the necessity of Mrs. Thatcher's new approach to politics.

Before the Falklands war, Mrs. Thatcher's rating in the opinion polls had already caught up with her opponents.

Mrs. Thatcher has thus changed the terms of reference for British politics. Despite 3 million unemployed, and against the predictions of the majority of so-called opinion formers at the mid-term of the last parliament, she has been returned, disproving the assumption on which the post-war social democratic consensus was built. A popular explanation for her victory is that it resulted largely from her courageous stand and resolute leadership during the Falklands conflict. I do not doubt that this had a considerable effect, but I also do not believe that it was the principal explanation. Before the Falklands war, Mrs. Thatcher's rating in the opinion polls had already caught up with that of her opponents, and although it is unprovable, I have little doubt that the fundamental explanation is that she was steadily gaining support and (often reluctant) admiration for her stand against the widely unpopular trade union leadership, which the people had increasingly come to see as responsible for a great deal of Britain's difficulties. In this election, almost half the rank-and-file of trade unionists voted Conservative—an amazing achievement for Mrs. Thatcher. It was not only a reflection of the general understanding that we could not continue with the rake's progress economics of the now-defunct Neo-Keynesian consensus. It also resulted from the new position of millions of working-class people who as homeowners had acquired what had previously been exclusively middle-class values—which was why they had increasingly been unwilling to follow militant union demands for strikes that harmed their families.

To millions of such people, previously natural Labour supporters, the Labour party was simply unacceptable. It was offering a socialist program so extreme that no

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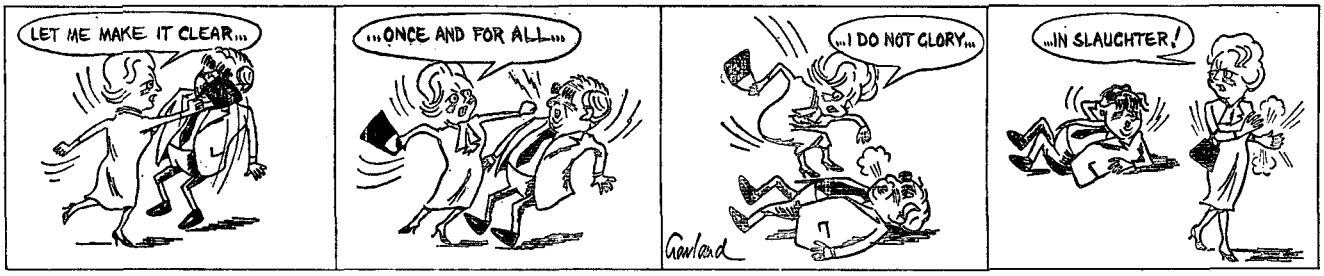

previous Labour leadership had dared to put it to the people. The capture of the party's citadels of power by the left had forced the moderates to accept policies they did not believe in. Labour's leader, Michael Foot, himself encapsulated the split mind of the party. He had been elected as a man of the left, whose aim was a thoroughgoing socialist state, but he also had the reputation of a decent parliamentarian. The incoherence of his style and personality reflected the incoherence of the party he led. It offered unilateral disarmament—but the moderates stressed the commitment to NATO. It was committed to leaving the Common Market—but this was to be done in an orderly way. It pretended to forswear an incomes policy—but moderates emphasized that some kind of voluntary pay curb, which nobody believed the unions would offer, was essential. The Labour party promised hugely inflationary spending, which everyone knew would undermine the value of savings and earnings, necessitating a highly controlled society. And Labour would greatly increase the public sector of the economy and put the private sector under close government control.

The Labour party promised hugely inflationary spending, which everyone knew would undermine the value of savings and earnings . . .

Above all, Labour produced many more left-wing and Marxist candidates, and the country did not trust it. On polling day, almost as big a proportion of the national vote (26 percent) went to the new Social Democratic party (which had broken from Labour in revolt against Marxism) and to their Liberal allies, as went to the Labour party (28 percent).

Mrs. Thatcher has sometimes, even in her own party, been called a dogmatist for striking out on a new course of honest government by creating the conditions for individual responsibility and sound money. But the electorate understood that with the old decayed compromises finally destroyed by Labour extremism, there was no other way. What was needed was a new consensus. That might have been achieved by a Labour victory and the launch of irreversible socialism. But instead, the British people's persistent refusal to accept a socialist state and the formation of an alternative party on the Tories' left that would also accept a free society ensured victory for Mrs. Thatcher and a new consensus in British politics.

The whole of recent British history pointed to such an outcome. This is not by instinct a socialist nation, and Labour has never flourished as a party of pure socialism. Given the alternative, historical necessity required Mrs. Thatcher's victory. The implications for the future are profound. For a parliamentary system to function smoothly and for the economy to prosper, both parties ought to be competing within a broad agreement about the nature of society. (It is precisely because both parties do this in the United States that American industry has not been plagued with the same uncertainties over, for instance, nationalization and denationalization, that have damaged British industry.) Assuming that Mrs. Thatcher conducts her second government effectively and keeps popular support for her vision of a free society, a new opposition in Britain must accept this basic principle. In theory, an alternative could come from either the reform (to the right) of the Labour party or its gradual replacement by the Social Democrats.

Given the present balance of power in the Labour party, reform seems highly improbable. Neither of the present prospective leaders to replace Mr. Foot would be likely to achieve this. The candidate who is likely to be elected, Neil Kinnock, is a leftist whose principal asset is socialist rhetoric with little substance of leadership; his principle challenger, Roy Hattersley, is one of nature's trimmers, and he would be trimming to a wind from the hard left. The election takes place this autumn.

Departures and Defections

The onus of forming the nucleus of a new opposition to the Conservatives, therefore, appears to rest with the Social Democrats. David Owen, whom they have just elected leader in place of Roy Jenkins, seems to understand more clearly than his predecessor that the SDP can only prosper by appealing to Labour's natural constituency—largely working-class voters—and by accepting that it is increasingly a constituency of new prosperity and new ideas that differ sharply from the old socialist orator's. He knows, too, that to succeed, the SDP must be a patriotic party, which is what Labour used to be. Mr. Owen himself always struck precisely the right note during the Falklands conflict.

For the moment, the SDP is greatly disadvantaged by our first-past-the-post electoral system. It has only six MPs, together with the Liberals' seventeen, to represent their combined 26 percent of the electorate. Yet a shift of only a few percentage points for the Alliance—and par-

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ticularly the SDP—would gain seats in Parliament at Labour's expense. Already Labour MPs have been virtually swept out of southern England, and in a large number of constituencies elsewhere Alliance candidates ran a close second. If the push to the left continues inside the Labour party, it seems almost inevitable that there will be further defections of Labour moderates to the SDP, and conceivably also even a shift of some unions from their present Labour affiliation to a connection instead with the Social Democrats. Only if Mrs. Thatcher's government becomes so deeply unpopular that serious social unrest ensues is it at all conceivable that the increasingly socialist Labour party could gain ground on its present socialist platform at the next election. There is no reason to expect this to happen.

Yet if we are to go forward in the direction of the free society—which is where the election points—Mrs. Thatcher must carry the people with her. If she does not, she risks the revival of socialism. She must conduct a popular government for all classes.

The prime minister does not have an easy path ahead. Her overriding objective remains the virtual extinguishing of inflation. But bringing down interest rates, on which the continued revival of economic growth depends, is no less important. To achieve both goals in the context of reducing public spending and borrowing, and also keeping the sterling exchange rate stable, will require much skill—and some luck, especially given extraneous factors, notably the direction of the U.S. economy.

Touch-and-Go

To stimulate enterprise, the Thatcher government must get taxation down, and it is particularly important to remove taxation from low-paid wage-earners, for whom there is at present a wholly inadequate differential between what they can take home from state unemployment benefits and what they can take home from pay. That relationship prices essential jobs out of existence. Lowering taxation must therefore be part of the attack on unemployment. But my own view is that the government will also have to adopt much more adventurous attitudes toward the unemployment problem, the greatest obstacle to a third term for Mrs. Thatcher. Of course, steady if unsensational growth and minimal inflation should boost employment through the blossoming of new industries; so should government help to new industrial developments. But the government will need to look again at sharing more equitably the smaller number of jobs that are available in a less labor-intensive society. Tax incentives for some working mothers to stay at home and look after their families is one possibility. Earlier retirement is another, though that is expensive. But it is essential to remember that Mrs. Thatcher has not been given a blank check. Her landslide is based on only 44 percent of the total votes cast. Had there been a responsible opposition, the outcome might have been different. As it was, the electorate has rejected Labour outright, but it has also given a preliminary sign of recognition and approval to the Alliance partnership, both as an implicit warning to Mrs. Thatcher and as an encouragement to the new party.

During the coming parliament, it will be touch-and-go whether the principal opposition to the Conservatives will devolve finally on the Social Democrats (with their Liberal associates) or on Labour and socialism. How extreme Labour becomes depends on the unions, but it is doubtful whether the unions can pull their party far back from the left. But to remove the threat of socialism finally from the scene, Mrs. Thatcher must catch the public imagination with her offer of a more responsible society in which the individual counts more, and so win a third term. The government will continue its policy of privatization; it will do more to make the trade unions responsible to their members by allowing ordinary members to ballot for the election of their executive committees. But popular democracy cannot rest there, and a number of ministers (including the new chancellor of the exchequer, Nigel Lawson) are eager to encourage it by the spread of industrial participation and share ownership. They know that they have to offer a program for a popular democracy, thus settling the shape of politics in a nonsocialist Britain.

. . . the Social Democrats do not show a clear understanding of how to proceed. Most . . . are instinctively pro-state people . . . not socialists.

Paradoxically, it is on Mrs. Thatcher's success that the Social Democrats' future depends. Our first-past-the-post system will not stop them from supplanting Labour, though it initially slows the process down. Once they are recognized as standing for a genuine interest in the country, they can do it, just as Labour replaced the old Liberal party in the 1920s. The present Liberals are in many respects an unpredictable quantity. They have a good grass-roots organization, but they also have a propensity to be a constituency-level party that is all things to all men. They are a curious mixture of nineteenth-century Whigs, crypto–Social Democrats (like their leader, David Steel), and sandal-clad supporters of impractical causes. The Social Democrats, from experience in the Labour party, understand the realities of national politics better.

For the moment, however, the Social Democrats do not show a clear understanding of how to proceed. Most of them are instinctively pro-state people who are not socialists. They entered the Labour party believing that its socialist element could be contained. But they themselves invariably looked to state action as the means of advancing the cause of the underdogs for whom they saw themselves as advocates. Largely middle-class people by origin or education, they wanted a bigger or better welfare state, painlessly paid for by government-sponsored growth—and a more egalitarian society imposed by quasigovernmental organizations and comprehensive schools. It will not be easy, but they will have to shed some of their urge for social engineering if they are to

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come to terms with life in the free society that is Mrs. Thatcher's aim. They will probably stress industrial democracy (many of them would support the election of workers' representatives to public boards) and work councils. They will perhaps seek to break down professional and union vested interests. They will inevitably be more collectivist than the Tories, and the old argument about where precisely the line between collective and individual responsibility should be drawn will continue in a new form.

But at least there is a hope now that both the Conservatives and the Social Democrats (with Mrs. Thatcher setting the pace) can move toward a society in which both parties can function with a measure of agreement, as the Republicans and Democrats do in the United States, pushing the socialist Labour party—and its ideas for a wholly different kind of state—to the outer fringes of politics. Two election victories by Mrs. Thatcher and the decline of the Labour party have laid the basis for such a system, and if it evolves, it will have the profoundest consequences not only for Britain but also, by providing an example, for Western democratic politics in general.

Ronald Butt

RONALD BUTT *is associate editor of the* Times *of London.*

The Economics of Thatcherism

There is poetic, even political justice in Margaret Thatcher's decisive electoral triumph at the very moment serious papers were celebrating the centenary of the birth of John Maynard Keynes. It is no doubt true, as Friedrich Hayek and Milton Friedman wrote in successive issues of *The Economist* just before polling day, that if he had lived beyond 1946, the ever-flexible Keynes would long ago have broken from his politicized disciples who never ceased urging increased government spending as a panacea for unemployment. Yet for all its plausible appeal in 1983 (with more than 3 million registered for unemployment benefits out of a labor force of 26 million) and despite the Labour party's promise to create 2 million jobs in five years, the Conservatives more than doubled their 1979 lead over Labour, from 7 percent of the total votes cast to 15 percent.

Interpretation of election results is always hazardous. Besides the familiar multiplicity of issues, there was this time the changing lineup of parties following the Social Democrats' breakaway from Labour and their formation of an alliance with the rump of the Liberal party. The opinion polls consistently confirmed that unemployment was the chief worry of most people. Yet the alliance came within 3 percent of Labour's diminished share of votes without promising more than a token stimulus aimed at knocking half a million off the 3 million out of work. In unequivocal contrast Mrs. Thatcher made no promises about when or how rapidly employment would increase. Her repeated refrain was that the basis for a sound recovery was improved efficiency and reduced inflation.

This achievement in democratic persuasion cannot be lightly dismissed by attributing her electoral success to the Falklands factor. Have we forgotten how Churchill was toppled from power in 1945 following a rather larger military victory? The chief relevance of the Falklands War was that it advertised the same determination and inescapable realism that have increasingly become hallmarks of her strategy against inflation. But perhaps the strongest indication that the ghost of Keynes may at last have been exorcised in the land of his birth came from the Labour party. Within hours of defeat, some of their most perceptive leaders acknowledged that all the brave promises of painless economic recovery had not carried conviction even with Labour stalwarts and would have to be rethought.

Supporting evidence was provided by Labour's mounting complaints during the election that the Tory press barons were stopping their story of economic hope from reaching the people. The plain fact was that even papers strongly favorable to Labour, like the *Guardian* and Sunday *Observer,* finally turned away. Then there was radio and television, which brought the rival leaders and their policies into every home throughout the three weeks of campaigning. Conservatives have traditionally accused these media of left-wing bias. But interviewers repeatedly asked Labour spokesmen how they would prevent their reflation of demand from causing a renewal of inflation. It was almost as though they had all been briefed by Mr. Friedman. Again and again, whenever Michael Foot or his colleagues spoke of a "massive increase" in spending to stimulate employment, they were asked: "But where would the money come from? Would you increase taxes, borrow more, or resort to printing?" And increasingly, Mr. Foot & Company were driven back to lamely reassuring the public that they would avoid inflation by increasing borrowing or even raising taxes—to be confined, of course, to "those most able to pay." Yet again, the interviewers learned to ask: "But would not increased borrowing lead to higher interest rates?" To which the cornered reflationists would bravely mumble about diverting existing savings from going abroad by reimposing exchange controls and, if that did not suffice, cajoling pension funds and banks into investing in British industry.

Twin Pledges

This central anxiety of Labour to avoid appearing soft on inflation was further paraded in their endless talk about securing the cooperation of trade unions for all restraint in wages short of an "incomes policy," which is anathema to the left-wing union leaders. Thus, there was a new verbal formula about an annual economic assessment by the government in partnership with trade unions

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to establish what could be afforded, in return for restoring the legal privileges of the unions. Not surprisingly, a large part of Conservative propaganda concentrated on the 1978–79 winter of discontent. It was in the closing months of the last Labour government that a plague of strikes in the essential public services wrecked its so-called social contract with the very same union barons who were openly financing Labour's election campaign.

Indeed, to an extent unusual in past general elections, I would say that the campaign was truly educational in clarifying the alternative economic approaches of the two main parties and concentrating on their likely outcomes.

This sharp confrontation between rival policies was inevitable in the circumstances of 1983. Labour naturally believed it had a trump card in a level of unemployment that certainly seemed politically unacceptable. The Conservatives naturally sought to blame unemployment on the world recession and could cite only the reduction of inflation as a major achievement. Indeed, Mrs. Thatcher had come to power in 1979 on the twin pledges of beating back inflation and rolling back the state. After four years her government could show more success with the first than with the second. In place of the postwar Keynesian-collectivist consensus, the Conservatives had promised a monetary-market revolution that would simultaneously check inflationary demand and stimulate flagging supply. Four years later, they seemed well on the way to delivering the first half of the counterrevolution but had fallen well short of liberating the supply of effort and marketable output.

By 1979 inflationary expectations had become deeply embedded in the thinking of managements no less than among their trade union antagonists. Previous governments had regularly promised to check rising prices, only to turn up the Keynesian tap when unemployment began rising to uncomfortable levels. To defeat this inflationary psychology, Mrs. Thatcher's chancellor of the exchequer, Sir Geoffrey Howe, had to act tough. He first swept away Labour's statutory control over prices and profits, and in 1980 he launched a medium-term financial strategy that specified declining annual targets for monetary growth and public borrowing. Despite early difficulties in bringing the appropriate mechanisms under control, he has had—by any previous British standards—a dramatic success. From 22 percent in 1980, inflation was down to 4 percent by the general election.

Tackling the Economy

Of course, Sir Geoffrey's remarkable success was helped not only by the rising exchange rate for the pound despite the bold abolition of exchange controls but also by the general recession. And there were weaker Conservative brethren in Mrs. Thatcher's cabinet (the so-called Wets), who began urging reflation as unemployment remorselessly rose from 1.3 million in 1979 to more than 3 million in 1983. Nor can it be doubted that the government's refusal to depart from its announced strategy in order to accommodate rising wages had the effect of intensifying the rise in unemployment and the fall in manufacturing output. The impact of monetary discipline was most severe on the private sector, where the average real return on capital (excluding North Sea Oil) had already fallen from above 10 percent in the 1960s to below 5 percent in 1979 and was to shrink still further. The Conservatives' brave hope had been that tax cuts and reductions in the burden of government would provide the supply-side boost to help revitalize British industry. Sir Geoffrey started well in his first budget by reducing the standard income tax rate from 33 percent to 30 percent, the top rate from 83 percent to 60 percent, and the top rate on investment income from 98 percent to 75 percent. But the difficulty of cutting spending meant that the budget had to be balanced by raising the value-added tax from 8 to 15 percent despite the predictable effects on wage claims.

Alas, the hoped-for later reductions in government expenditure were never forthcoming. So, far from falling, public spending since 1979 has risen from 50 percent to 56 percent of an admittedly smaller *recorded* national income—that is, one that ignores the increasing "black" economy variously estimated at 7.5 percent to 15 percent of the gross national product. The government has brought some relief, for example, by nibbling away at trade unions' legal privileges, deregulating long-distance coaches, and making a start with denationalizing cable and wireless, British Aerospace, Britoil, and National Freight. It has also encouraged contracting-out of local government services, with savings of one third or more. But in the welfare sector, which takes more than half of public revenue, even a government as determined as Mrs. Thatcher's has found it difficult to do more than slow the growth in spending. For all Labour's propaganda about savage cuts, Britain's mixed economy was hardly less collectivist in 1983 than it had been in 1979.

The resulting squeeze on private industry confronted the managements of even leading companies—for the first time since the war—with the plain choice of getting better or going bust. The same lady who said the Falklands must be rescued from the impact of foreign power had said from the beginning with equal firmness that lame ducks would not be rescued from their own inefficiency. As the toll of bankruptcies began to mount, more and more managers were galvanized into tackling the

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long-neglected overmanning and restrictive practices that had been at the heart of the British disease.

The outcome is not adequately measured by the shedding of, commonly, 10 percent to 25 percent of underemployed labor, by the containment of wage costs, by the record rise in productivity, or even by the astonishing way exports have held up. Despite the routine squeals from the Confederation of British Industry, as always reflecting yesterday's jobs rather than tomorrow's enterprise, there are better grounds for hope than in half a century or more. It is not only the political optimists who talk of a transformation in the climate of self-confidence among businessmen. Almost all tell how managers have gone over the heads of union obstructionists to win their employees' support for efficient and flexible working arrangements. At last companies are poised to take advantage of improving trade.

A Manifesto

But there are plenty of obstacles, stemming mostly from the familiar inefficiencies, regulations, and monopoly industries of the public sector. One indication is that the prices of state services (postage, telephone, transport, gas, electricity) have commonly risen twice as fast as private output prices. Another is that taxes, local rates, and so-called national insurance contributions have increasingly chipped away at take-home pay so that millions of people are little, if any, worse off living in leisure on indexed welfare benefits than working at an unskilled job for forty hours a week. At the same time mobility of labor is still obstructed by rent control, and employment especially of school dropouts is discouraged, particularly in retailing and hotels, by statutory minimum wages that have pushed starting wages up to 50 or 60 percent of those earned by experienced adults.

Whenever I have urged Conservative politicians since 1979 to move more radically and rapidly in dismantling their collectivist inheritance, I have been regularly told that all that was for the second term. So I was encouraged by the Conservative manifesto, which sought a broad vote of confidence for the record to date, particularly on inflation, while leaving the way open for more extensive denationalization, deregulation, diminution of trade union privileges, and shifting toward private provision of the welfare services now largely monopolized by the state. Labour critics also noticed this open-ended prospectus and began asking whether there was a secret manifesto. I was a little dismayed by the vehemence with which Conservative ministers thereupon denied any intentions to cut back government services—which remains essential to reduce taxes.

As we wait to see what the new government will put into its first program of legislation, I can only hope it proves a more dramatic step toward changing the mix of the present unduly mixed economy. We would not then have to keep waiting for the fall of U.S. interest rates to be certain of a sustained British recovery. Our target should follow Colin Clark's prescription of reducing total taxes from a half to a quarter of national income. And so long as her aim gets better, I should not mind waiting for Mrs. Thatcher's third term to hit that final bull's-eye.

Ralph Harris

RALPH HARRIS, *Lord Harris of High Cross, was one of the founders of the Institute of Economic Affairs in London.*

The Shape of Things to Come

So predictable was Margaret Thatcher's victory that postelection press accounts treated it as at best a minor triumph. Most articles granted the Conservatives their landslide, then quickly proceeded to the subtler aspects of the contest—Labour's bumbling disasters and the fortunes of the plucky little third party. It wasn't so much that Mrs. Thatcher won, they said, but that Labour lost.

This statement is true, it so happens, but its truth has cheated the prime minister of her due. That Labour fell apart is an intriguing story; demise is usually far more compelling than stodgy solidity. Nonetheless, Mrs. Thatcher's victory was a magnificent one—and no less stunning for having been foreseen.

The day after the election, a *Daily Telegraph* editorial reminded readers that Mrs. Thatcher's "measure of achievement has to be related to the obstacles which have faced her. It has not been nearly so easy as it looks early this morning." She had 3 million unemployed. The economy was in such dismal shape that she was forced, as political scientist Richard Rose put it, to "boast to a Smith Square Press conference that under the Conservatives the national product had only *fallen* by one percent." She had fought inflation but was still fighting the calls for reflation. Measured against the obstacles, her electoral achievements are remarkable.

Few would have wagered in 1979—or even 1982—that the prime minister could so handily win reelection with so many problems remaining. But then, few would have guessed that she could win against inflation, win over the new working class, and win a war. Most of all, few foresaw how successful she would be at setting for Britons an example of what they and their nation should be willing to do: to endure hardship without despair, to challenge orthodoxy, and to risk disfavor. And the people followed her determined lead.

Just how did she manage this?

Surprisingly, Margaret Thatcher is not overwhelmingly personally popular. In fact, fewer than a third of the public (29 percent) think she is "a nice person," according to a Harris poll conducted for the *Observer* shortly before the election.[1] Personal appeal has shored up more than one national leader faced with seemingly intractable problems and unappealing solutions, but Mrs. Thatcher

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was not so blessed. Rather, it was her somewhat unnice qualities that inspired her followers.

Again and again, polls uncovered appreciation for Mrs. Thatcher's fortitude and strength of character—what one paper called her doggedness. She somehow manages to inspire confidence and encourage flickers of optimism without raising hopes unrealistically high.

Winning a war helped Mrs. Thatcher, but it was less directly significant than most postelection analyses (and preelection presumptions) supposed. In the Gallup election poll,[2] which invited respondents to name whatever two issues they felt to be the most important influences on their vote, a minuscule 1.4 percent cited the Falkland Islands. Though Thatcher's ratings rebounded in concert with actions taken in the South Atlantic, they fell a full 13 points from their height between June and September. At the time, it was assumed that the glow was fading and would eventually disappear. No such thing occurred. Very gradually, point by point, the ratings edged back within 6 points of their post-Falklands peak.

What the Falklands and Mrs. Thatcher's handling of matters there did was reinforce existing notions about the prime minister. Any war—even an abbreviated victorious one—can prove divisive in an election. Neil Kinnock and Denis Healey suspected this but so botched the attempt to remind people of war's inevitable horrors that they discredited themselves and further damaged their party. By resisting the temptation to capitalize on the victory itself, Mrs. Thatcher managed to defuse its worst possible effects and bolster her resolute image, already well buttressed by other demonstrations of fortitude. It was not the war that came to people's minds as a reason for casting a Conservative vote but a picture of the prime minister as someone who would gain respect for Britain abroad, had good judgment in a crisis, and offered a vision of where she wanted to lead the country.[3] So although Margaret Thatcher may not be considered a nice person, she has presented herself as someone admirably possessed of the less tender but more important qualities necessary to good leadership.

Playing with Aspirations

One of the war's residual effects was to convince the public that an adequate defense was as important as Conservatives had been saying. In 1983 defense was the issue named second most often as important in influencing votes; it had been mentioned by only 2 percent in 1979.[4] Conservatives reaped the benefits of this new interest, though not all their policies were endorsed. Substantial majorities agreed that Britain should keep its own nuclear weapons (74 percent) and that it would be dangerous to cut defense spending (69 percent); they disagreed with the prospect of closing all American nuclear bases in Britain (52 percent).[5] On the siting of cruise missiles, though, results are unclear. In the Harris survey, 55 percent said Britain "should not allow any new American nuclear arms like cruise to be based here." In the Gallup survey, 56 percent believed that allowing "cruise missiles to be sited in Britain" was a good idea, a sharp reversal from earlier in the year. Wording of the questions might account for the differences between the two surveys, but the disparity reveals that opinion is, at best, unsettled.

Which of the party leaders . . .	Thatcher	Foot	Jenkins
Would gain respect for Britain abroad?	61%	15%	16%
Has good judgment in a crisis?	57	19	15
Offers a vision of where he or she wants to lead the country?	53	26	13
Explains his or her policies effectively to the public?	52	27	16
Leaving politics aside, is a nice person?	29	28	23

Source: Survey by the Harris Research Centre for the Observer.

Thatcher showed at home the same sort of determination she had exhibited in the Falklands, and she was rewarded with votes from some unlikely quarters. Her stubborn fight against inflation impressed people more than did insistent unemployment. Although unemployment was named overwhelmingly as the most important issue influencing votes (72 percent in the Gallup poll), it failed to ruin the party that could have been held responsible. In fact, 24 percent of the unemployed voted Conservative.[6] A majority of Conservative loyalists (54 percent) named unemployment as one of the most important issues,[7] yet it appears that they blamed neither Thatcher nor her government for its prevalence. In addition, the Conservative party, not Labour, was most trusted to "take the right decisions on unemployment," even though Labour's policies were preferred.[8] Clearly, joblessness was on people's minds, and it gave the Labour party one of its few edges in the election. But if Thatcher did not exactly turn the issue to her advantage, she kept it from destroying her. As brutal—and important—as the employment situation was, inflation was more influential.

Because inflation had dropped, it was seen as a less significant issue than it had been earlier, and Conservatives got credit for making the improvements. Whereas "in 1979, Labour had the edge, by 13 percent, as the party for prices, by 1983 Conservatives were preferred by 40 percent."[9] Adding to the Conservatives' advantage, when people were asked which was more important for "you and your family," 56 percent answered inflation, 36 percent unemployment. When asked which was more important for the country, a predictably high 61 percent selected unemployment; 30 percent chose inflation.[10] Civicmindedness notwithstanding, self-interest proves more persuasive when people are voting.

It was Mrs. Thatcher's appeal to individual and family interests that established her as the candidate of the new working class. Many of those defecting from the Labour party voted Conservative—remarkable under any circumstances, but particularly when there was a seemingly more sympathetic third party available as an option. Mrs. Thatcher was able to identify with and play to the aspirations and attitudes of many manual workers as

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well as the more traditionally Conservative middle-class voters.[11] By reducing inflation and by making it possible for former council tenants to purchase their homes, she added to the numbers of manual workers who had been inclined to the Conservatives in 1979.

As Professor Richard Rose explained shortly before the election, there are dwindling numbers of traditional manual workers, those "to whom Michael Foot addresses his reminiscences of the 1930s and 1940s . . . Only one voter in twenty-five now conforms to the stereotype of the council tenant, union member, with a minimum of education."[12] Those were the manual workers who had only a minimal stake in society; they were, and are, most susceptible to Labour's promises. Now, though, 43 percent of all manual workers own their homes, and these homeowners gave the Conservatives a 22 percent edge over Labour.[13]

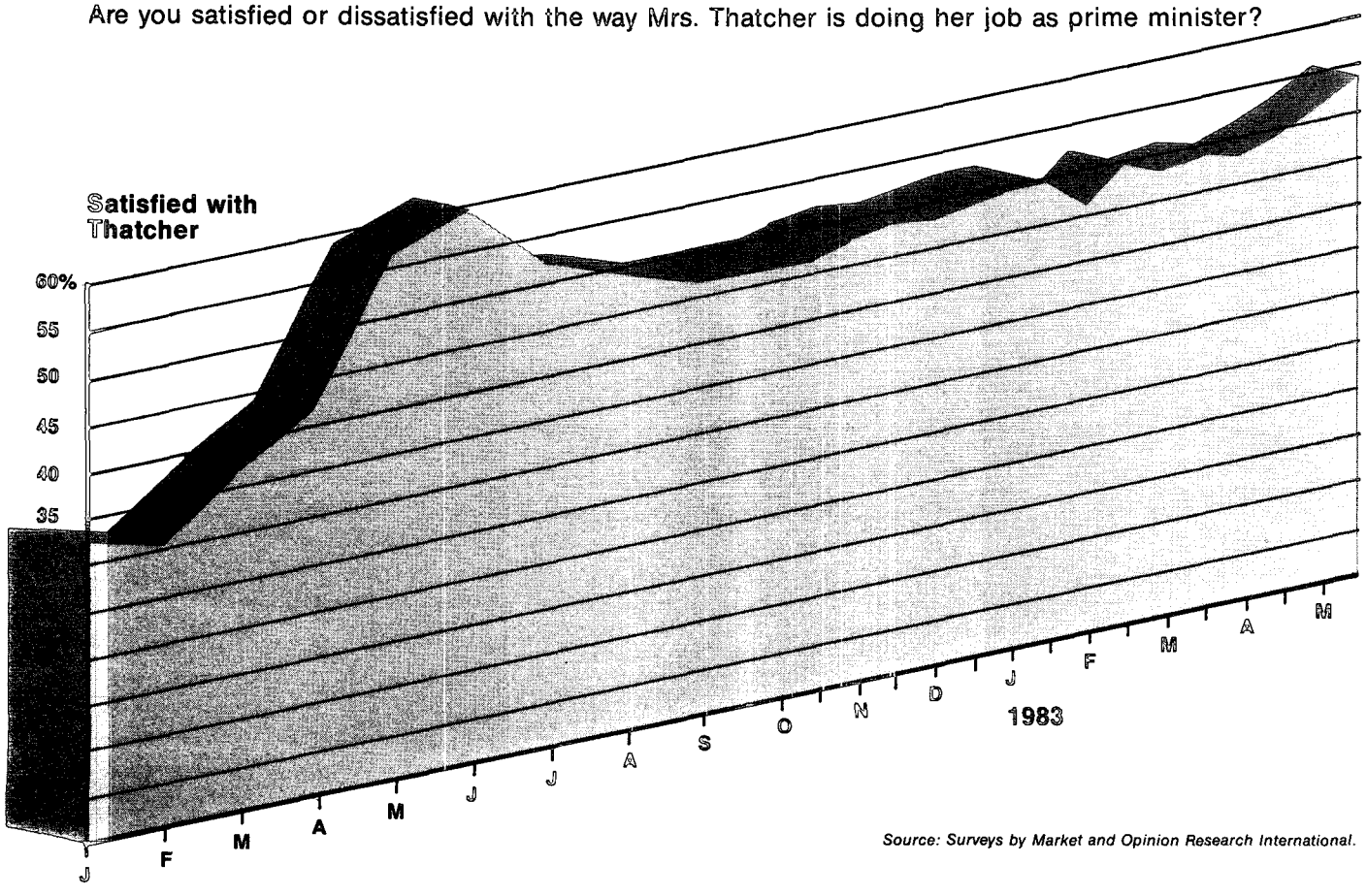
Even Tony Benn has noticed the change. During his farewell speech, he remarked rather wistfully, "Occasionally, I go to a council estate where they've bought their houses. New door; brass knocker. When you knock, they say they haven't made up their minds. Sometimes they say they're Conservative. Does the purchase of a council house mean that you are no longer part and parcel of a collective society? Can anyone say these ideas can be eroded by color television and holidays in Majorca?"[14] Those who own the homes and the televisions, who do not carry with them the legacies of World War II, have what they want and want to keep it.

It is certainly true that Conservatives have much for which to thank Labour: The party of the working class had selected as leader a man whom 63 percent thought would make the worst prime minister. In choices for the best prime minister, Michael Foot came in third, with 13 percent, behind Margaret Thatcher (46 percent) and David Steel (35 percent). Only Roy Jenkins, with 6 percent, was less impressive.[15] Labour's internal dissension and the promotion of some unpalatable policies helped cement its image as a played-out party.

Luring the Disenchanted

Calls for unilateral nuclear disarmament, reflation of the economy, nationalization of British industry, objections to the selling of council houses—all sounded, and were, sadly out of touch with Britons' sentiments. We have already seen that feelings ran strongly in favor of Britain's retaining its own nuclear weapons; even more interesting is that almost two thirds of Labour supporters favored this. Only 25 percent of all voters trusted the Labour party to "make the right decisions about defense, nuclear weapons, and disarmament."[16] Denationalization of industry, not nationalization, was in vogue: 57 percent endorsed the Conservative proposals for "selling off substantial parts of British Steel and British Leyland to private companies."[17] Reflation would be no more popular than inflation had been. And the selling of council houses proved a stroke of genius for the Conservatives. Overall, a mere 25 percent thought the Labour

Are you satisfied or dissatisfied with the way Mrs. Thatcher is doing her job as prime minister?



Source: Surveys by Market and Opinion Research International.

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party had "the best policies," exactly half of the Conservatives' support.[18]

The litany of Labour failures goes on and on. The party attracted only 39 percent of the trade union vote, down 14 percentage points from its 1979 share. When unemployment was indisputably the most important issue, and was seen as Labour's issue, the party claiming to be the great champion of the jobless earned less than half the votes of the unemployed. Altogether, the Labour party received the lowest share of the manual workers' vote (38 percent) since 1959.[19]

With Labour doing so badly and the Conservatives doing so well, where did the Alliance fit in? It seems it would have been the reasonable choice both for those put off by Labour's left extremism and for those discouraged by the Conservatives' economic and defense policies. Indeed, the new party pulled in a greater share of the popular vote (25.4 percent) than had been expected, and it performed better than any center party for the last sixty years. But as every SDP or Liberal partisan has repeated endlessly, the Alliance came away with fewer than 4 percent of the Parliamentary seats: less, they say, than their fair share.

The Alliance drew so evenly from all classes that it was unable to establish its own constituency. It lured defectors from both parties, and it hung onto 84 percent of its own identifiers. Those few who abandoned the Conservatives tended to go to the Alliance, and so did three-fifths of Labour deserters. But it failed to attract *all* of the disenchanted Labour votes: "For every three switching to the Alliance, one went to the Conservatives, and one stayed home."[20]

Part of the Alliance's problem was the meandering universality of its appeal. To attract "protest votes from all directions, [it] had to avoid any clear-cut ideological definition of its own."[21] When added to the widespread perception that the Alliance could not win, this failure to distinguish itself with specific policies ensured that it would earn only a small number of seats. Few associated with the Alliance the policies it *had* stressed—incomes policy and proportional representation—and fewer still identified the Alliance as the party with the best policies on any issue.

Labour narrowed its emphasis to accommodate its most radical members and lost votes because of it. The Alliance, with its broad appeals, made the opposite mistake but suffered the same consequences. But it is more likely that the latter's mistakes can be corrected.

In a gloomy prophecy, Michael Foot speculated that a Labour party loss in the 1983 election would be "the most fateful . . . since the party was founded in 1900. More peremptorily than ever before, if in a new form, R. H. Tawney's fundamental question is presented to us: Who is to be master? If democratic socialists cannot secure the right answer at the next parliamentary opportunity, we may not be asked again, or rather this old famous socialist stream could perish in sectarian bogs and sands."[22] If that fate has indeed befallen the Labour party, the Alliance will most probably be the beneficiary.

The 1983 election could portend the demise of the Labour party as we have known it, the solidification of the Alliance as a respectable opposition party, and the invincibility of the Conservatives. If new voters presage the future, this might be exactly what happens. First-time voters traditionally lean toward Labour, and they tend to vote heavily against the incumbent party. In 1983 they did neither. Even with youth unemployment at 1.2 million, the Conservatives came in first among those casting their initial ballots. Richard Rose has said that to win elections, a "party must combine the continuing support of a major section or class of society with an appeal to newly emerging groups." The Conservatives have done this, and they have Margaret Thatcher to thank.

Victoria Sackett

VICTORIA SACKETT *is associate editor of* Public Opinion.

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Feeding Everybody

How Federal Food Programs Grew and Grew

James Bovard

It was 1967. In the previous five years, the number of people receiving food stamps or surplus commodities had declined by 38 percent, the number of poor had declined by almost 30 percent, the economy was booming, and incomes were rising 2 or 3 percent per year. But the Great Society was floundering: Liberals took a beating in the 1966 congressional races, urban riots were eroding middle-class guilt, and Vietnam was beginning to overshadow domestic events. The War on Poverty, begun with such fanfare in 1964, was petering out, and the liberal agenda appeared out of gas.

And then hunger was discovered.

This is the story of how a handful of isolated incidents became justification for vastly increasing dependency in America; how a trivial number of examples stampeded Congress into a sweeping expansion of the welfare state; how congressmen repeatedly exaggerated the extent of hunger in order to justify trying to feed everybody; and how government, even though it increased spending twentyfold, still could not achieve its original goals. This is also the story of government at loggerheads, as one program spends $18 billion a year to subsidize diets while other programs and regulations do everything possible to raise food prices, in effect preventing the poor from getting adequate nutrition as cheaply as possible.

Congress first vastly overestimated the amount of poverty-related hunger, then set food assistance eligibility levels far above the poverty line, and then insisted that anyone eligible for food aid would go hungry unless government fed them. From the late 1960s to 1980, Congress continually expanded eligibility, redoubled benefits, and ordered campaign after campaign to recruit people for the dole. Yet the federal government today knows almost as little about the extent and causes of malnutrition as it did in 1967.

The history of food assistance programs since the late 1960s marks an important change in the American welfare state, from self-sufficiency as an honor and a right to government exhortations that people accept handouts and relinquish their pride. The expansion of food assistance is as much a revolution of principle as of policy.

No one knows the total number of people government is feeding today. Federal food programs have roughly 70 million enrollees—more than quadruple the 1960 enrollment of 16 million. Families can simultaneously participate in seven food programs, and many get more from the government than self-supporting families spend on their food.

Now that the federal government has entered the "feed everybody" business, as one group after another has become eligible to eat at everyone else's expense, government takes responsibility for feeding people under 20 and over 60 regardless of their or their family's income. The cutoff income for federal food assistance for a family of four ($18,315) is now close to the median annual income for a full-time, year-round worker ($16,955 in 1981). Forty-five percent of pregnant women and infants in America are eligible for food handouts.

Bad Precedent

From 1939 to 1943 the U.S. Department of Agriculture distributed food stamps to 13 million people, largely to help dispose of agricultural surpluses. The original food stamp program was chock-full of fraud and abuse; the USDA estimated that 25 percent of all coupons were abused, and the program was discontinued.

For some years afterward, the poor somehow managed to feed themselves. A 1955 USDA dietary survey found that only 25 percent of America's roughly 43 million poor had bad diets—diets containing less than two thirds of the recommended daily allowance for essential nutrients. Seventy-five percent of the poor provided themselves with adequate diets even though only a third were on public assistance.[1]

Nevertheless, in 1958 sixteen bills were introduced in Congress to bring back food stamps. At 1958 House Agriculture Committee hearings, during the worst recession since World War II, Representative Victor Anfuso (D.–New York), apparently going for the headlines, declared, ". . . ten million people in the United States . . . have inadequate incomes to buy the food they need . . ."[2] Representative George McGovern urged a food stamp program to provide benefits to 7 million or 8 million poor folk. There was no feeling among the committee or witnesses that tens of millions of Americans needed free or subsidized food. And it was not surprising that some of the poor were having trouble buying food, since the USDA was spending more than $2 billion a year to drive up food prices through price supports, acreage allotments, cropland set-asides, and the Food for Peace program to dump surplus commodities overseas.

In 1961 President Kennedy's first executive order initiated pilot food stamp programs in West Virginia and other states. Kennedy also doubled the number of surplus commodities that government distributed to the poor; enrollment in this program jumped to 6.4 million.

Kennedy's pilot food stamp program was tightly run, included nutritional education, and required participants to buy stamps at an average of 60 percent of face value, depending on family income. When counties converted

JAMES BOVARD *is an investigative journalist.*

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from surplus commodity distribution to food stamps, many families dropped out because they were afraid the USDA would check their incomes too closely, or because the program was no longer worth their while. In St. Louis, for example, a person simply had to declare himself needy to be eligible for free commodities.[3] A 1967 General Accounting Office report found that between 30 and 40 percent of participants in the commodity distribution program had incomes exceeding program-eligibility limits.[4] Also, many families did not want to tie up their money in food stamps even though the stamps paid on the average a 66 percent bonus over cash costs; that is, for $6 one could receive $10 worth of stamps.

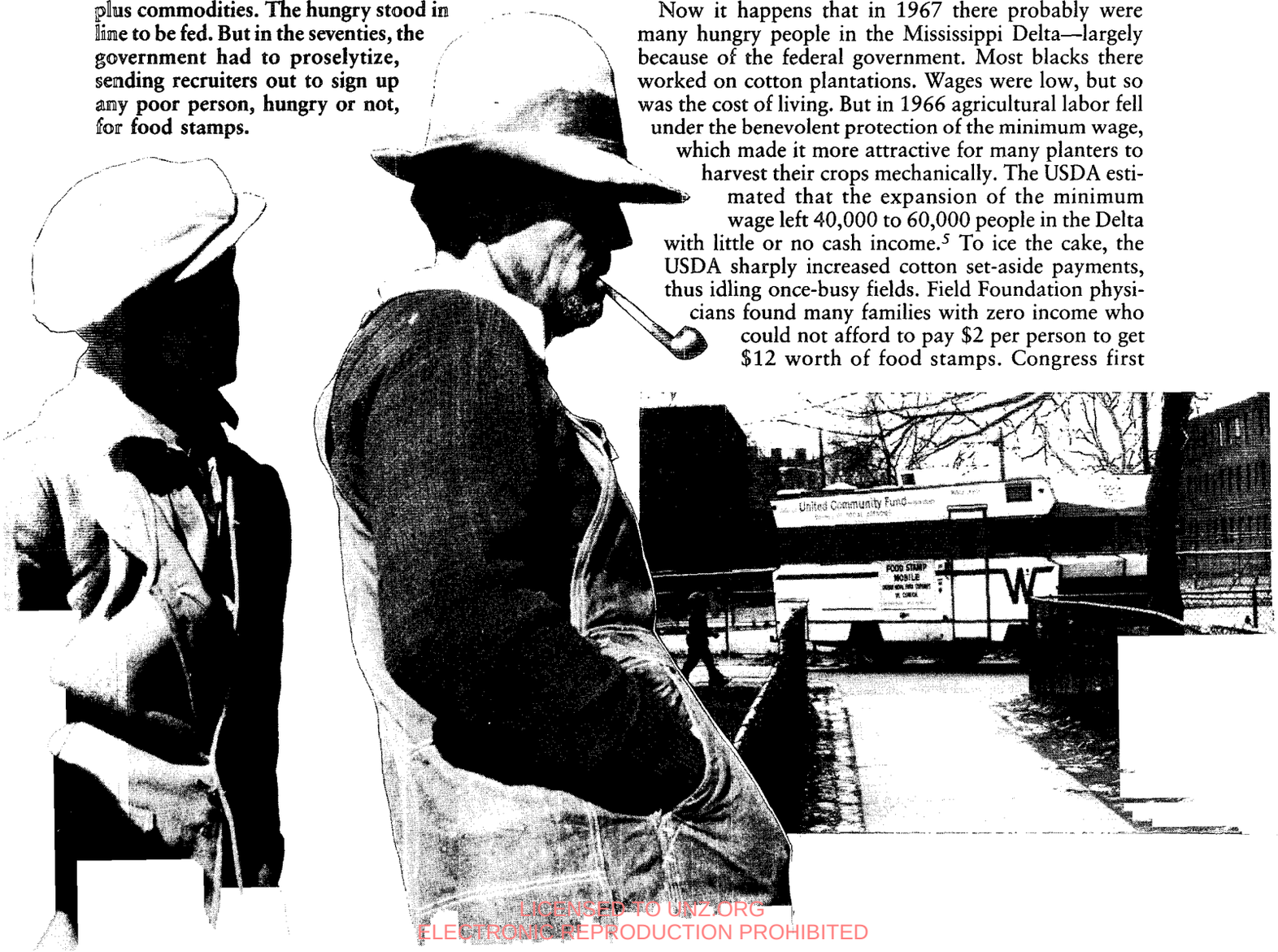
There was a widespread consensus that the limited federal food assistance programs had alleviated what little severe hunger existed. Michael Harrington, the self-proclaimed socialist whose book *The Other America* did more than anything else to make poverty a public issue again, wrote in 1962, "To be sure, the Other America is not impoverished in the same sense as those poor nations where millions cling to hunger as a defense against starvation. This country has escaped such extremes." Harrington's book openly sought to inflame public opinion, but even he would not contend that America's poor were hungry.

From 1963 to 1966 the *New York Times* did not run a single article on hunger in America. President Johnson sought to raise his sagging political fortunes in 1966 by declaring a war on hunger, but he was concerned solely with foreign hunger, and his campaign appeared to be largely intended both to justify dumping our agricultural surpluses on the world market and to distract attention from Vietnam. In a March 1967 *Look* magazine article, Senator George McGovern declared, "We are losing the race against hunger," but the article dealt with world hunger and did not even mention hunger in America.

Then, in April 1967, Senator Robert Kennedy and the Senate Subcommittee on Employment, Manpower, and Poverty held hearings on the War on Poverty in Mississippi. At the time, 20 percent of Mississippians were already receiving surplus commodities or food stamps. Kennedy found examples of acute poverty and malnutrition. The Field Foundation, a nonprofit organization concerned with poverty and race relations, quickly sent a team of physicians to examine 600 children in the Mississippi Delta, and they found sufficient suffering to justify a wholesale expansion in government aid.

Now it happens that in 1967 there probably were many hungry people in the Mississippi Delta—largely because of the federal government. Most blacks there worked on cotton plantations. Wages were low, but so was the cost of living. But in 1966 agricultural labor fell under the benevolent protection of the minimum wage, which made it more attractive for many planters to harvest their crops mechanically. The USDA estimated that the expansion of the minimum wage left 40,000 to 60,000 people in the Delta with little or no cash income.[5] To ice the cake, the USDA sharply increased cotton set-aside payments, thus idling once-busy fields. Field Foundation physicians found many families with zero income who could not afford to pay $2 per person to get $12 worth of food stamps. Congress first

In the thirties, when crop failures, the Depression, and strikes created hunger, the government distributed surplus commodities. The hungry stood in line to be fed. But in the seventies, the government had to proselytize, sending recruiters out to sign up any poor person, hungry or not, for food stamps.



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wrecked the local labor economy and then was shocked that men without jobs had trouble feeding their families.

The hunger issue was heating up, but it needed more credibility to play in Peoria. The Citizens Crusade against Poverty sponsored the Citizens Board of Inquiry into Hunger and Malnutrition in the United States. The chairman of the crusade was Walter Reuther, head of the United Auto Workers. The board rounded up a handful of doctors, held hearings in Alabama, Texas, South Carolina, and Kentucky, and issued a report in April 1968 entitled *Hunger U.S.A.* The report was largely anecdotal, including a picture of a scrawny dog with the caption, "Where you see a starving dog such as this one, you'll find hungry people." The report concluded with a shot-in-the-dark estimate that there were "10 million or more" Americans who could not afford adequate diets. The report offered few facts or statistics to back up its estimate. It listed 256 "hunger counties" in the United States, chosen solely on the basis of statistical data on infant mortality rates and the number of poor on the dole and food assistance programs.

A Way of Life

The Citizens Board report was the basis of a CBS documentary in May 1968, which found a few people who said they were going hungry because government would not feed them and concluded by denouncing our callous society. Dr. Raymond Wheeler of the Citizens Board announced, "Slow starvation has become part of the Southern way of life." Together, the board report and the CBS documentary made hunger a national issue.

More than any other single document, the board report was responsible for the food assistance explosion. It is surprising that the report was so respected. It used infant mortality figures from 1951 to 1960 even though statistics for 1965 were available. It contrasted the number of poor in 1960 with the number getting food assistance in 1967 even though the number of poor had declined by 12 million in the interim.[6] In 1968 House hearings Dr. Leslie Dunbar, cochairman of the board, said that only about half of the "hunger counties" had food assistance programs; in fact 194 of 256 did. Under questioning, board physicians admitted that their estimates were hypothetical and defended numerous inaccuracies and mistakes by saying that the report was a rush job and that the important thing was for Congress to act immediately. Much of the suffering the board attributed to malnutrition due to hunger was actually due to parasites.

Nationwide, many localities were amazed to find themselves designated hunger counties. The *Milwaukee Journal* on May 25, 1968, after investigating reports that Sawyer County, Wisconsin, was a hunger county, concluded, "In talks with a variety of residents, no one could be found who believes this to be true." The chairman of the House Agriculture Committee, Robert Poage, wrote to health officers in each of the 256 so-called hunger counties, and almost all responded by reporting little or no known hunger or malnutrition due to poverty. Even under the guidance of Secretary Orville Freeman, a New Deal liberal, the USDA in 1967 contended that only 6.7 million of the poor—not 10 million, as estimated by the Citizens Board—had bad diets or would have had bad diets in the absence of food programs.

The board's reasoning was epitomized by a statement by Dr. Dunbar. After observing that only 18 percent of the nation's 30 million poor were getting federal food handouts, Dr. Dunbar concluded, "We cannot assume that any of the remaining poor—those on neither program [food stamps or commodity distribution]—are getting food."[7] This little gem of logic became the guiding light for food assistance for the next decade.

But what was the dietary status of the poor in the mid-sixties? In February 1968 the USDA released results of its 1965 dietary survey, showing that 64 percent of the poor had good or adequate diets. The number of poor with bad diets increased from 25 percent in 1955 to 36 percent in 1965 despite sharp increases in public assistance enrollments. The two nutrients in which the poor were the most deficient were vitamin C, supplied by fresh fruits and vegetables, and calcium, supplied by milk. The *New York Times* reported on March 27, 1968, that the "downturn in nutritional value was attributable largely to a national turning away from milk and milk products, fruits and vegetables."

And why should that have occurred? USDA marketing orders kept the price of fruits and vegetables high, and price supports helped inflate the cost of milk. In fact, the same year that the dietary survey showed that 36 percent of the poor had calcium deficiencies, the USDA effectively ended the sale of reconstituted milk. Dairies had previously mixed milk powder, butterfat, and water to produce a drink that tasted like milk but cost 20 percent less because of savings in transport costs. But the USDA decreed that reconstituted milk could not be sold for less than the price of whole fluid milk, a regulation intended solely to protect dairy farmers' income and help reelect Wisconsin congressmen.

So, instead of modifying policies that artificially increased the price of nutritious foods, the government accelerated its across-the-board feeding approach. On May 6, 1969, President Richard Nixon declared, "That hunger and malnutrition should persist in a land such as ours is embarrassing and intolerable . . . The moment is at hand to put an end to hunger in America itself for all time." The programs that had remained manageable under the Johnson administration—food stamps, school lunch subsidies, and others—went into orbit during the Nixon years. President Nixon sponsored a White House conference on food and nutrition, which urged the president to declare a national emergency and give food stamps to anyone who said he needed them. In 1970 and 1971 food stamp eligibility was expanded; in 1973 legislation was passed mandating that every jurisdiction in the United States offer food stamps by June 1974.

Swallowing Pride

Even though food stamp enrollment quadrupled between 1968 and 1971, Congress mandated an outreach program for states to recruit people for food stamps. A USDA magazine reported that food stamp workers could often overcome people's pride by saying, "'This is for

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your children' . . . the problem is not with welfare recipients but with low-income workers: It is this group which recoils when anything even remotely resembling welfare is suggested." By early 1972 the magazine could announce, "With careful explanations . . . coupled with intensive outreach efforts, resistance from the 'too prouds' is bending. More and more are coming to the conclusion that taking needed assistance does not mean sacrificing dignity."[8] But according to USDA surveys, most of the poor did not need federal aid to have an adequate diet.

In March 1972 President Nixon announced Project FIND to locate and recruit 3 million elderly poor for food assistance. Despite mass mailing of information to almost 30 million retirees, and despite home visits and telephone campaigns by 36,000 Red Cross volunteers, only 190,000 elderly signed up. The GAO found that in most counties surveyed, recruiting efforts enticed fewer than 3 percent of the elderly poor onto the food dole.[9] Apparently, many felt that despite having been labeled poor by some bureaucrat, they could feed themselves.

No longer people who occasionally needed a helping hand, [the poor] became a social class by definition incapable of feeding itself.

In 1973 the Senate Select Committee on Nutrition and Hunger Needs, chaired by George McGovern, released *Hunger 1973,* a report intended as "a profile of the half-full, half-empty plate which the federal food programs represent to the nation's poor . . . after reaching the halfway mark . . ." The report observed, "Whether the real poverty count is 25, 26, or even 30 million persons, the fact that only 15 million of the poor participate in any food assistance program . . . indicates that the hunger gap is far from closed either for the country or the individuals concerned." The *New Republic* editorialized, ". . . almost half (48%) of the poor still do not receive adequate food . . . 12.7 million people who ought to be getting either food stamps or commodities have not been."[10] The Senate Select Committee published a list of "failure to feed" counties in which fewer than a third of the poor were on food doles. This sufficed for evidence of the committee's claims of widespread hunger.

In five years the definition of hunger changed from insufficient food to low income and no federal food handout. Even though the USDA reported that almost two thirds of the poor did not have bad diets, congressmen insisted that any poor person not being fed by the government must be hungry and malnourished. A radical change occurred in the concept of the poor. No longer people who occasionally needed a helping hand, they became a social class by definition incapable of feeding itself. The fixation on food program enrollments is even more surprising, considering that many of the poor not enrolled were receiving some other kind of public assistance intended to help cover food costs, such as Aid to Families with Dependent Children.

In 1974 the Senate Select Committee held a conference to rescue the hunger issue from oblivion. Conference participants agreed that despite a fourfold increase in federal food aid since 1968, "we have moved backwards in our struggle to end hunger, poverty, and malnutrition." The *New York Times* gave the conference a front-page headline: "U.S. Needy Found Poorer, Hungrier than Four Years Ago."[11] Even though food stamp enrollment had zoomed from 3 million to 16 million and the number of poor was roughly the same, things had somehow worsened. As usual, the evidence was anecdotal, with no nationwide survey to back up claims.

In 1974 the Food Research and Action Center, a federally funded lobby, successfully sued USDA to require the agency to increase its food stamp outreach efforts. The USDA suggested sending food stamp workers to unemployment offices to distribute leaflets, and in Pennsylvania food stamp aides went to supermarkets to hustle shoppers. By 1976 twelve states had conducted door-to-door recruiting campaigns, and seventeen had conducted telephone campaigns. Door-to-door food stamp advertising became a favorite project for Comprehensive Employment and Training Act (CETA) workers.

In Wisconsin 2,000 copies of the Food Stamp Nursery Rhyme Coloring Book were distributed. In Kentucky a traveling puppet show told folks how and why to sign up for benefits. The USDA enlisted Dustin Hoffman, Joyce Brothers, Count Basie, and other notables to do promotional radio spots for food stamps and the national school lunch program.

Grilled Steaks

A typical 1975 USDA brochure announced, "You are in good company. Millions of Americans use food stamps." A leaflet distributed in Maryland and paid for by the federal government showed a gaunt face on the cover with the question, "Did you know some people would rather STARVE than seek HELP . . ." On the inside, the brochure said, "PRIDE NEVER FILLS EMPTY STOMACHS . . . Are you one of thousands of Maryland residents who . . . have too much pride to consider applying for help? Then you need to know more about the Food Stamp program. Food Stamps should NOT be confused with CHARITY! In fact, food stamps are designed to help you help yourself."

The Community Services Administration funded scores of local and national food stamp advocate organizations to increase enrollment in food programs. The Office of Economic Opportunity called in 1971 for community action agencies to "prick the public conscience" over the need for more food handouts, declaring, ". . . food stamps are not used as often as they ought to be, particularly by the intermediate income families among the poor."[12] Total funding for food advocacy organizations probably exceeded $100 million in the 1970s.

In 1975, when food stamp enrollment neared 20 million, public outcries over food stamp recipients who

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drove Cadillacs and grilled steaks broke the political sound barrier. A full-page ad in *Parade* magazine offered a booklet telling how people earning $16,000 a year could qualify for food stamps. The General Accounting Office reported in 1975 that 18 percent of all food stamp benefits were fraudulent or excessive.[13] The Joint Economic Committee estimated that up to 73 million Americans were eligible, and a USDA assistant secretary said that under current rules, participation could rise to 110 million. The Ford administration tried to reduce benefits sharply for half the recipients, but Congress resisted.

Ridiculous Stigmas

In 1977 the purchase requirement for food stamps was abolished, and the program became a straight handout. Congressional supporters did this explicitly to increase enrollment by 3 million; the Congressional Budget Office estimated that the change would add up to $2.7 billion a year to food stamp costs. In 1977 the head of USDA's Food and Nutrition Service declared,

> I'm aware that there is a welfare stigma for people who use food stamps, but it's ridiculous . . . It is, in fact, far more desirable that people meet their nutrition needs with food stamps than that they drive their cars over federally financed roads.[14]

In 1979 USDA Assistant Secretary Carol Tucker Foreman complained, "There are areas of the country and particular age groups in which participation levels are outrageously low."[15] The USDA continued trying to round up and enlist anyone who chanced to fall under eligibility guidelines. Also in 1979, Congress expanded enrollment by broadening eligibility and allowing additional deductions for medical and shelter expenses.

Between 1977–78 and 1979–80, the poor suffered another significant reduction in their calcium intakes—by an average of nearly a cup of milk per week. Calcium was already the most widely deficient nutrient among the poor in 1977, but that did not deter Congress from increasing the dairy support price from 75 to 80 percent of parity in 1977, nor did it deter President Carter from further increasing the support price on the eve of the 1980 election. Almost 40 percent of the poor do not get sufficient calcium in their diets.

Under pressure from the Reagan administration, Congress in 1981 and 1982 sought to reduce food stamp expenditures, tighten eligibility, and cut fraud. But the food stamp program will cost $1.6 billion more in fiscal year 1983 than in fiscal year 1981. Enrollment has surged from 20.6 million to 22 million, and the average monthly benefit has increased from $39.49 to $42.67. Food assistance spending has increased 34 percent since 1980 despite President Reagan's promises to cut back welfare spending.

We now have thirteen food assistance programs, including ten for children. Among them:

- The Summer Feeding Program, begun in 1967, now feeds 3 million youngsters each summer. There are no income eligibility limits for this program: As long as a child lives in or visits a low-income neighborhood with a feeding site, he can have a free lunch. In 1977 the GAO reported that since centers were reimbursed by the meal, some were serving the same children five times a day. Nationwide, fraud and abuse were rampant: Contractors were collecting for nonexistent meals, adults were eating meals designated for children, and kickbacks were enriching the sponsoring organizations.[16]
- The Child Care Food Program, begun in 1968, subsidizes food in day-care and other child-care centers. In 1978 Congress removed all income eligibility standards, and the program's cost quadrupled in the following four years. The GAO recently estimated that more than 70 percent of participants now come from families with incomes above 185 percent of the poverty line. The GAO also found that meals served at 62 percent of participant centers failed to meet USDA nutritional standards, and 20 percent of centers had unhealthy conditions, including vermin.[17]
- The Supplemental Feeding Program for Women, Infants, and Children (WIC) provides food coupons for specific dairy, cereal, and infant formula items for pregnant mothers and children under 5 who are judged to be at "nutritional risk." The GAO reports that according to one survey of physicians, only 29 percent of WIC participants showed noticeable nutritional improvement from WIC foods, and 53 percent showed either no deficiency or no benefit.[18] The third most prevalent nutritional deficiency justifying free WIC food is obesity. Roughly 80 percent of WIC participants are already on food stamps.[19] The Commodity Supplemental Food Program serves the same clientele as WIC but provides food instead of coupons; in Washington, D.C., only about half the enrollees bother to pick up the free food.[20]
- The Congregate Feeding for the Elderly, begun in 1966, provides free meals five times a week for citizens over 60, regardless of income, and for their mates, regardless of age. Along with Meals on Wheels, it fed 3 million elderly in 1982.
- The School Breakfast Program serves breakfast to an average of 3 million children each school day. Congress thought that low-income families could not afford to feed their youngsters breakfast, even though 84 percent of participants come from families already eligible for food stamps. The federal government also pays 14 cents per breakfast for middle-class students who eat at school.
- The National School Lunch Program serves 23 million children a day—9.9 million for free, 7 million at reduced prices, and 6 million who "pay" but still eat federally subsidized lunches. The federal subsidy per "paid" lunch amounted to $65 per middle-class child (from a family earning 185 percent of the poverty level) in fiscal 1981; the Reagan administration has since reduced the subsidy. George McGovern, Hubert Humphrey, and other liberals pushed hard in the early 1970s for a universal free lunch program, and in 1977 Congress authorized special subsidies to schools that provided free lunches for all children, regardless of income.

Hunger Hoax

For fifteen years politicians have insisted that the main purpose of food programs is to fight hunger, and for fifteen years the programs' main effect has been to raise

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the incomes of tens of millions without appreciably affecting their nutrition. Liberals and the media have perpetrated a hunger hoax to justify sharply increasing the income of the welfare class.

Two thirds of the 8 million new food stamp recipients between 1968 and 1972 were public assistance recipients who were automatically added to the rolls, thanks to vigorous federal and local recruiting. Until 1977 public assistance recipients were automatically entitled to food stamps, regardless of their income. Food stamps were extended to public assistance recipients even though public assistance was already supposed to be covering or helping cover food costs. Charles Hobbs, Governor Reagan's welfare director, estimated, "In 1976 the welfare family of four received, on average, cash and in-kind benefits totalling $14,960—an amount slightly higher than the median family income in that year."[21]

If a person quits a $50,000-a-year job and has few assets, he is eligible to receive food stamps the following month.

Food stamps are also generally available to the unemployed, whether they quit work or were discharged. This is because the program calculates eligibility solely on present income: If a person quits a $50,000-a-year job and has few assets, he is eligible to receive food stamps the following month. The GAO estimated that 70 percent of food stamp errors stemmed from recipients' misreporting their incomes, and the USDA inspector general's office found that 30 percent of the recipients of free and reduced-price lunches were ineligible.

A 1983 GAO report found that food stamp fraud and abuse averaged a billion dollars a year. The report noted, "Officials in the states GAO visited said they had not tried to identify more overissuance cases because there have been no requirements and few financial incentives."[22] In 1980 and 1981, when roughly $2 billion in stamps was overissued through error and fraud, state governments managed to recover only $20 million—just 1 percent of the loss.[23] In Los Angeles and New York City, people who finagled excess benefits received a single letter telling them to pay money back; there was no followup. In Washington, D.C., where 15 percent of the population received food stamps and, according to the GAO, abuse was widespread, not a single person was prosecuted for fraud between 1978 and 1980. The GAO also reported that the federally funded Food Research and Action Committee "advised food stamp recipients that they did not have to make restitution for receiving too many benefits."[24] (FRAC received $150,000 from the federally funded Legal Services Corporation in 1982 and has been given $50,000 so far this year, money it is using to help people sue the USDA and bring class-action suits to block proposed cutbacks in nutrition spending.)

In testimony before the Joint Economic Committee in May 1983, Office of Management and Budget Director David Stockman said, "In 1981, fully 42 percent of all dollars expended on low-income benefits went to households which, when that aid was included, had incomes above 150 percent of the poverty level."

Until 1981, strikers were allowed to get food stamps immediately after going on strike. In some places, such as the Illinois coal fields, special food stamp offices were set up to handle the rush after a major walkout. Students easily qualified for food stamps until 1980; a GAO study in 1975 found that 13 percent of the students at one university were on the dole.[25]

Many farmers complain that because of food stamps it is difficult to find people willing to help harvest crops. The *San Juan Journal* editorialized on August 22, 1975, that the food stamp program "is cultivating, encouraging, and abetting a generation of loafers in Puerto Rico." (Almost 60 percent of the island's residents were receiving food stamps.) Treasury Secretary William Simon in congressional testimony cited the views of the director of the Puerto Rico Manufacturers Association and the president of the Association of General Contractors, "who say some industries are in danger of shutting down operations because they cannot find workers. This is occurring in spite of the fact that unemployment on the island is 20 percent."[26] One 1975 study found that "recipients of food stamps with some wage income choose to work fewer hours when food stamps are available. The decrease in income from work is roughly equal to the subsidy so that the two cancel out and there is no net gain in income."[27]

The farcical work registration requirements are another example of how income redistribution masquerades as food stamps. The GAO reported in 1978 that of 620 able-bodied adult food stamp recipients required to register for work, only three actually got jobs.[28] Until 1981 the only penalty for refusing to work was suspension of benefits for thirty days. Thus someone could refuse a job and still get benefits every other month; his or her family was entitled to receive benefits even though the head of the household refused work. The USDA is known for being rough on its workers; the GAO noted, "Merely showing up at the worksite constituted compliance with the workfare obligation."[29] Federally funded legal service programs often sue local governments to stop food stamp work programs.

Where Does the Money Go?

Federal food programs largely replace food that people would have bought for themselves. A Congressional Budget Office study found that a dollar's worth of food stamps increased a family's food expenditure by only 57 cents; the other 43 cents simply replaced money the person would have spent on food anyway.[30] A recent study of Supplemental Security Income recipients whose food stamp allotments were cashed out found that each additional dollar of food stamp payments increased food purchases by only 14 cents.[31]

Despite a thirtyfold increase in federal spending for food assistance for the poor since 1955, there has been

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little or no major improvement in lower-income diets. As the table below shows, the average poor person in 1955 was already getting adequate nutrition. The poor's intake of essential nutrients in 1955 already exceeded the National Academy of Science's recommended daily allowance for 1980.

		Average Intake in Lower-Income Diets	
	1980 RDA	1955	1979–80
vitamin A	5,000 I.U.	8,120 I.U.	8,391 I.U.
thiamin	1.4 mg.	1.58 mg.	2.07 mg.
riboflavin	1.6 mg.	2.21 mg.	2.62 mg.
ascorbic acid	60 mg.	94 mg.	137 mg.
calcium	800 mg.	1.11 g.	1.05 g.
protein	56 g.	100 g.	101.9 g.
niacin	16 mg.	17.1 mg.	—
calories	2,700	3,180	2,897

The 1980 RDA is for males aged 23 to 50. The 1979–80 survey included other nutrients not surveyed in 1955.[32]

The Food and Nutrition Board of the National Academy of Science notes, "As there is no way of predicting whose needs are high and whose needs are low, RDA (except for energy) are estimated to exceed the requirements of most individuals, and thereby insure that the needs of nearly all are met."[33] And the USDA 1977–78 survey of low-income household diets concluded, "Food used both by households participating in the food stamp program and by those not participating was sufficient, on the average, to provide the 1974 RDA for food energy and the 11 nutrients studied."[34]

The 1979–80 study showed a sharp drop in the number of low-income households (both users and nonusers of food stamps) meeting the RDA for all nutrients and food energy—from 42 percent in 1977–78 to 39 percent in 1979–80.[35] This occurred despite a 3.6 million rise in food stamp enrollment, a 6.4 percent increase in the real value of the average food stamp benefits, and a 60 percent increase in federal monthly expenditures on food stamps (from $404 million to $642 million).

Nutritionally Adequate

Further evidence of the irrelevance of food stamps to lower-income nutrition comes from a 1982 USDA study on food stamps and lower-income elderly:

> After using regressional analysis to control for the effects of other variables, there were no statistically significant differences between program participants and eligible nonparticipants in the intakes of the nine nutrients studied.[36]

The 1979–80 survey of lower-income household diets revealed that the average low-income person eligible for but not using food stamps achieved the RDA for nine of thirteen nutrients; the average food stamp user met the RDA only for eight. Of those nutrients in which both groups were deficient, there was a significant difference between users and nonusers on only one—vitamin B_6 (food stamp users consumed 79 percent of the RDA, and nonusers 72 percent; nutritionists say that any diet with 70 percent of the RDA is adequate though not ideal). Nonusers had higher average intakes than food stamp users for three nutrients for which one or both groups fell short of the RDA (calcium, iron, and magnesium).[37]

If federal food assistance was intended to fight hunger, then it was an abject failure, since the poor consume fewer calories now than in 1955. The decline in calorie consumption among the poor stems largely from decreased fat intake and is mainly a result of personal choice. If hunger was widespread among the poor today, they would buy more calorie-dense, fatty foods, and fewer fruits and vegetables. Scattered cases of individual hunger may exist, but it makes no sense to make 40 million people eligible for food stamps because of half a dozen families shown on the evening news.

If food stamps were necessary for the majority of the poor to feed themselves, then the poor who do not use food stamps would not eat as well as those who do. In fact, a 1967 USDA study showed little difference in the nutritional status of food stamp users and nonusers of similar income and background. A 1972 USDA Consumer Expenditure Diary Survey reported that food stamp households "spent appoximately four times as much for nonalcoholic beverages (excluding fresh whole milk) than did non-food stamp households"—largely for soft drinks. Kenneth Clarkson observed in his 1975 book, *Food Stamps and Nutrition,* that food stamp recipients frequently buy more sweets and convenience or packaged foods instead of fresh fruits and vegetables and dairy products. The 1977–78 USDA survey of low-income household diets found that food stamp participants consumed more luncheon meats, sausages, soft drinks, cereals, and fruit punches than nonparticipants; low-income nonusers ate more eggs, tomatoes, dark-green vegetables, and grain mixtures.[38]

The National School Lunch Program receives $3 billion a year in federal money to provide one third of the recommended daily allowance for schoolchildren. But the GAO has repeatedly pointed out that the government's lunches do not even meet the government's standards. In 1977 the GAO noted, "The absence of any indication that the program is having a benefit upon the health of either needy or nonneedy children raises questions about the nutritional value of the lunch."[39] In 1978 the GAO reported that lab tests found that a random sample of school lunches "were significantly short in as many as 8 of the 13 nutrients tested . . . Separate tests in New York showed that at least 40% of the lunches did not meet USDA requirements as to quantities served."[40] In a 1981 followup, the GAO concluded, ". . . all types of lunches fell short of providing the recommended levels of as many as 7 of the 14 nutrients tested, some to a serious extent."[41]

Ineffective

Nor has the school breakfast program proved its salt. The *American Journal of Public Health* reported in 1978 that only two studies of the school breakfast program had reported beneficial effects; five others had found no difference.[42]

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The GAO's conclusion on WIC was that "reliable assessments of its overall results and benefits have not been made."[43] Dr. George Graham of Johns Hopkins University told the Senate Agriculture, Nutrition, and Forestry Committee in 1982 that ". . . most of the apparent benefits of the WIC program are the result of its usefulness in increasing utilization of prenatal and pediatric health services by some groups who habitually do not make regular use of them."[44] Since families of four with incomes up to $18,318 are eligible, most participants either get food stamps already or can afford to feed themselves. And more than 81 percent of recipients share WIC food with the family, thus minimizing nutritional effect on the pregnant woman and young child.

While government is doling out free food worth billions, federal efforts at nutritional education have been a singular failure. The USDA spent millions of dollars a year on nutrition education between 1955 and 1965, when American diets sharply deteriorated. The GAO reported that conflicting federal regulations on food labeling contribute to consumer confusion on healthy eating habits and that "federal efforts to inform the public [about nutrition] are sometimes unduly complex, duplicative, and contradictory."[45] Instead of teaching people how to get their money's worth out of their food dollars, government tries to rain perpetual subsidies upon them with the vague hope that they will eat better.

Food policy has been shaped by waves of hysteria, by accounts of elderly people who eat dog food, and by politicians competing to appear generous.

A recent *New York Times* editorial, entitled "Poorer, Hungrier," cited a list of statistics on infant mortality, short-statured 4-year-olds, and declining school lunch enrollment. The editorial naturally concluded, "Given what's happening to the hungry in America, this administration has cause only for shame."[46]

For a decade and a half, food politics has been dictated by fear of shame—by the dread that somewhere, somehow, some journalist will find a child with a bloated stomach and provoke another national uproar. Liberals still have close to no understanding of how programs actually work. The *Times* castigated President Reagan for wanting to trim the Child Care Food Program by over 25 percent. Yet over 70 percent of the benefits go to families with incomes above 185 percent of the poverty line. The *Times* says of WIC, "Nine million needy women and children are eligible for the program"—as always, eligibility in itself is taken as proof of need. Yet families of four with annual incomes of $18,315 are eligible; that figure is roughly equal to the national median for full-time, year-round workers.

The news media are repeating the same errors that they made ten and fifteen years ago. There is still a rush to portray all lower-income people as being in dire need and incapable of feeding themselves. Even though food stamp enrollment has increased by 2 million since President Reagan took office, popular accounts portray budget cuts as threatening millions with starvation.

Food policy has been shaped by waves of hysteria, by rarely verified accounts of elderly people who eat dog food, and by politicians competing to appear generous. Politicians have another motive besides: By raising eligibility levels, they have helped dispose of government's embarrassing agricultural surpluses. Politicians have long acted as though government can feed people better than people can feed themselves. Programs like school lunches continued growing despite repeated proof that government meals fail to provide good nutrition at least as often as—and for the nonpoor, more often than—private meals.

The Congressional Budget Office, which is staffed largely by liberal Democrats, conceded in 1980:

> Despite some limited cases of severe malnutrition found by the Senate Subcommittee on Employment, Manpower, and Poverty in the Mississippi Delta in 1967, statements that severe malnutrition exists on a national scale have never been documented, even during the early years of the "War on Poverty" programs.[47]

"Ten million" was the rallying cry of the late sixties; but since almost twice as many poor people had good or adequate diets as had bad diets in 1965, it is likely that at least half of the 10 million poor with bad diets ate badly because of habit rather than sheer need. And of those, several million were probably already receiving food stamps and surplus commodities. Thus, although in 1968 there may have been 2 million or 3 million people with poor diets who were not receiving federal food assistance, Congress responded by increasing food stamp enrollment by 20 million and increasing nutrition spending twentyfold. Yet malnutrition still exists, and it will exist as long as eating is a matter of individual choice. In diet, as in everything else, some people will always make bad decisions. We cannot end malnutrition without ending people's control over their own diets.

Charades

Pulitzer-prize-winning journalist Nick Kotz wrote in 1969 that "hunger provided a meaningful new metaphor for the issue of poverty in affluent America . . ."[48] Liberals realized in the late 1960s that handouts had lost their appeal to the majority; a new cover was needed for increasing redistribution. Thus the myth of mass hunger was born—largely as a tactical move to evade the backlash against the Great Society. Probably many of the people clamoring for massive increases in the late 1960s sincerely believed that more free food was really needed. But many others—especially some of the leaders—were probably aware of the charade.

Proof that redistribution alone was the main motivation is that the programs continued expanding long after they had reached the levels that proponents originally said would end hunger in America. Office of Economic

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Opportunity Director Sargent Shriver said in 1967, when the federal government spent roughly $700 million on food assistance, that another billion dollars would be sufficient to end the problem. Another billion dollars was appropriated, and then another, and still another—and yet the more money spent, the hungrier the poor supposedly became. Eventually, only government provision of a full diet for all citizens with low incomes was seen as satisfactory.

The issue of mass hunger has emotionalized and muddled American politics for the past sixteen years. It is easy to understand why politicians and much of the media cling to the myth: If it were widely recognized that most of the poor are not severely deprived and not tottering on the edge of starvation and not utterly helpless, the rationale for a vast array of welfare programs would disappear. Politicians made a mockery of the definition of need and denigrated the poor in order to expand the pork barrel. We now have a hodgepodge of ineffective food programs because congressmen believe they can win votes by supporting subsidies for people who can feed themselves.

If government is resolved to take care of everyone, it would make far more sense to fight malnutrition than hunger. Hunger can usually be rectified by individual effort, but malnutrition is more often the result of ignorance or sheer poverty. The Congressional Budget Office noted in 1980 that "specific nutrients could be added to children's diets through targeted fortification schemes. Vitamin fortification could provide for 100% of a child's RDA for less than $3 a year in ingredient costs."[49] In 1975 Stanley Lebergott wrote in *Wealth and Want,* "Fifty dollars worth of milk plus vitamin pills annually would bring every poor family up to the U.S. nutrition average."[50] Indeed, passing out vitamin pills to the poor would be far cheaper and more effective nutritionally than current programs and would not destroy anyone's incentive to provide for himself.

Charles Schultze, President Carter's chief economic adviser, estimated in 1971 that federal agricultural policies add 15 percent to the retail cost of food. Journalist Nick Kotz observed in his 1969 book, *Let Them Eat Promises,* that the Food and Drug Administration and the USDA prohibit domestic marketing of many super-enriched food products being marketed by American corporations in Third World countries. The FDA prohibits manufacturers from adding nutrients to candy and soft drinks—or to any other food that in its opinion lacks "nutritional logic" to justify the enrichment.[51]

Debilitating Dependence

The working and elderly poor who are too proud to go on the dole are caught in a crossfire as social workers beg them to abandon their independence while politicians destroy the purchasing power of their food dollar. It is farcical to hear politicians sobbing over the poor's plight while they try to raise food prices by hook or by crook or by PIK. George McGovern, the leading advocate for increased food assistance during the 1970s, pushed high price supports for almost all commodities. Though he was generous to the poor who surrendered their independence and went on the dole, he showed no sympathy for low-income families who tried to feed themselves.

There are probably still a handful of hungry people in the United States despite the federal government's efforts to foist food on them. But the answer is not to increase food assistance—if that would abolish hunger, then hunger would have become extinct long ago. Many of the stories in the press about hungry kids deal with families who get food stamps or other food aid but fail to budget properly. When individual irresponsibility or imprudence is the cause of hunger, it makes more sense to provide soup kitchens rather than a month's worth of food stamps. National policy should not turn on the most sensational examples the evening news team can find.

The great myth underlying the growth of food assistance is that nutrition is largely dependent on income. But in 1955—when half the poor lived in rural, non-

Either food stamps are unnecessary for the vast majority of recipients, or every other major federal assistance program is a failure.

metropolitan areas—the Household Food Consumption Survey found, "In farm diets, most nutrients other than ascorbic acid were little affected by income."[52] The CBO concluded in 1977, "It still remains unclear if increased food purchases . . . means improved nutritional status."[53] The great majority of bad diets, now as in 1955, are due to ignorance and bad habit, not low income.

The astounding thing about the growth of food aid is that for almost every targeted group, a federal program already existed to help the poor feed themselves. Most of the surge in the food stamp program in the late sixties and early seventies came from automatically enrolling the recipients of public assistance—a program that was supposedly helping the poor buy food. Throughout the 1970s, Congress strove to increase food stamp enrollment among the elderly, whose increased Social Security benefits were supposedly justified by their need for a decent standard of living. (And in 1974, Supplemental Security Income payments were added to give a decent income to any elderly who missed the Social Security bonanza.) Food stamp advocates insist that food stamps are vital for the unemployed—for whom unemployment compensation benefits were created in 1935, specifically to prevent them from going hungry. Either food stamps are unnecessary for the vast majority of recipients, or every other major federal assistance program is a failure.

The other food assistance programs—from WIC to school lunches to school breakfast to child care—feed people who either are already eligible for food stamps or do not need a handout to feed themselves. We can be humanitarian without paying for eight meals a day for poor people. If Congress cannot summon the courage to tighten the food stamp program, it should at least end

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duplicate benefits and abolish food handouts for anyone above the poverty line. Taxpayers should not be coerced to feed those who can feed themselves.

Hunger has become an issue to conjure with—a political magic wand to mesmerize the public's critical faculties. Despite a thirtyfold increase in food aid for the poor since 1955, there has been little or no improvement in their diets. Food programs have wasted billions, lured millions onto the dole, and perpetrated the myth that a low income is automatically debilitating.

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How Not to Cut Crime

Rehabilitating Criminals Cannot Cut Crime

Ernest van den Haag

Two issues concerning rehabilitation have been amply discussed. Penologists have inquired: "Do rehabilitation programs reduce recidivism?"[1] Recently the effectiveness of all programs has been questioned. In turn philosophers have debated a moral problem: "Should criminals be punished for their past crimes according to what is deserved? or, should they be subjected to future-oriented treatment programs and released when rehabilitated?" Lately there has been a return to the justice and away from the treatment model, at least theoretically, but the problem has not been resolved. Legislation and sentences continue to reveal an untidy compromise between rehabilitative (treatment) and justice (desert) ideas. However, I do not propose to discuss either the philosophical or the empirical issue mentioned.[2] Rather, I want to address a theoretical question, which, as far as I know, has not received much attention.

Car thieves, burglars, dentists, or prostitutes sell the proceeds of their activities, or render services for which there is a demand by others.

Chronic Crooks

Let me assume that rehabilitation is 100 percent successful. This "total rehabilitation" exceeds the wildest dreams of dedicated proponents, but the assumption will help us focus on the crime rate. Total rehabilitation means that every convict who serves any sentence—be it thirty days, or thirty years, in prison, or on probation—becomes a law-abiding citizen upon release; there is no recidivism at any time.

If all criminals were recidivists, total rehabilitation would reduce the crime rate to zero. But recidivists start as first offenders. Indeed, some of the worst crimes are often committed by first offenders. Most murders are.[3] Since it could affect criminals only after their first conviction, even total rehabilitation could not significantly reduce the homicide rate.

The proportion of muggers, rapists, or burglars apprehended and convicted upon their first offense is small. Even habitual criminals often remain unapprehended or unconvicted for a long time while continuing their criminal activities. Therefore they could not be rehabilitated. Thus, even without recidivists, crimes would continue to be committed by first offenders and by unconvicted multiple offenders. One may reasonably estimate that although recidivists, including career criminals, undoubtedly commit a disproportionate number of many crimes, they do not commit most crimes in most categories. The more unconvicted offenders start, or continue, criminal activities, the less the elimination of recidivism would reduce the crime rate. Even total rehabilitation might make only a modest dent in the crime rate.[4]

Let me make a second heroic assumption. Suppose that up to now most crimes were committed by recidivists and only a small proportion by unconvicted offenders. Recidivism now is eliminated by our first assumption. One is tempted to infer that the crime rate will be greatly reduced. After all, we are assuming, *arguendo,* that recidivists committed most crimes and that they no longer commit any. However, it does not follow that fewer crimes will be committed. An increase in criminal activity by nonrecidivists is likely to offset the assumed elimination of recidivists from the criminal population.

We can understand why the crime rate will not fall if instead of considering the problem most theories of crime causation dwell on ("who commits crimes and why?") we ask: "Why is the crime rate neither higher nor lower than it is?" The subject ultimately is the same. But the different focus of each question leads to a different answer. The first question produces a concern with individual psychological motivation for crime; the second takes motivation as a datum and considers what else determines the number of persons (or of acts) in each crime category.[5]

The number of persons engaged in any activity, lawful or not, depends on the comparative net advantage they expect. Thus, the number of practicing dentists, grocers, drug dealers, or burglars depends on the net advantage they expect these occupations to yield compared with other occupations available to them. The number of persons engaged in an occupation does not change unless the expected comparative net advantage does,[6] and it can be shown to change when the net advantage does. Further, if the attrition rate is stable, retired dentists, drug dealers, or burglars will be replaced at a rate that maintains the number of active practitioners so that it equals the number attracted by the expected comparative net advantage.

In short, the rate at which dental or criminal acts will be committed remains unchanged, unless the net advan-

ERNEST VAN DEN HAAG *is a member of the* Policy Review *editorial board.*

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tage of committing them changes. It does not matter what the stable attrition rate is.

Suppose now that the attrition rate suddenly increases; after committing fifty dental acts on the average, all dentists are rehabilitated, whereas in the past they committed a far greater number of dental acts before rehabilitation. There will be a temporary decline of dental acts. But if the demand for dentistry is unchanged, the reduced supply of dentists will augment the net advantage of people willing to commit dentistry. The higher net advantage very soon would attract additional new entrants (if one supposes that licensing or study requirements can be overcome) whereupon it would decline again. The old net advantage would be reestablished and the number of practitioners would return to what it was. If all practicing dentists regularly were rehabilitated after fifty dental acts (the newly stabilized rate of attrition) more first offenders and fewer recidivists would engage in dental acts. But as long as the net advantage does not change, the rate at which dentistry would be committed would remain unchanged.

Now, I cannot see any relevant difference between dentistry and prostitution, or car stealing, except that the latter activities actually require no license. The number of practicing prostitutes, car thieves, dentists, grocers, or drug dealers will be determined by the expected comparative net advantages, regardless of rehabilitation rates. Rehabilitation or attrition rates will influence only the rate at which new practitioners enter and thereby the proportion of first offenders in the occupation. If attrition rates rise, the number of practitioners will decline only during the process of change. To reiterate, the number of practitioners depends entirely on the expected comparative net advantage of the occupation and changes only with it.

Car thieves, burglars, dentists, or prostitutes sell the proceeds of their activities, or render services for which there is a demand by others. What about offenders who steal money, such as pickpockets, muggers, absconding cashiers, or tax evaders?[7] They commit instrumental crimes (crimes committed for the sake of expected proceeds), but unlike burglars, they do not depend on the demand of other persons for the harvest, which they consume themselves. And what about rapists? They engage in expressive crimes (crimes not committed to acquire things of value) for the sake of their own consumption; the rapist is attracted by the process of rape, not by any proceeds. The demand for the activity of rapists or muggers does not come from other persons as does the demand for dentistry, prostitution, or burglary. There is no market for rape.

Mugging and Drilling

Yet, the frequency of rape or of mugging is essentially determined by the expected comparative net advantage, just as the rate of dentistry and burglary is. The comparative net advantage consists of the satisfaction (produced by money or by the violative act) expected from the crime, less the expected cost of achieving it, compared to the net satisfaction expected from other activities the offender has the opportunity to engage in. Cost, in the main, equals the expected penalty divided by the risk of suffering it.[8]

The comparative net advantage expected often is indeterminate, and it differs greatly from person to person. (Usually it cannot even be cardinally measured.) Nor does the mugger or rapist calculate it. But, then, all this is true for prospective lawyers or plumbers, too. Still, whatever the distribution of advantages, and despite the inchoateness of expectations, in each occupation there is an average expected net advantage; it determines the rate of entrance into lawful and unlawful occupations alike.[9] Wherefore at any time we have a determinate rate of rape (per 100,000 persons, or females, or males, in various age groups). It would decline if penalties, or the risk of suffering them, were sufficiently increased, thereby decreasing the net advantage; and it would rise if the penalty were reduced to a $5 fine, or if it were very rarely imposed.

The net advantage of mugging or rape will rise, only if the cost . . . declines. If it does not, total rehabilitation reduces the frequency [of crime].

Total rehabilitation of all convicted rapists or muggers would not make any difference—except that there would be no recidivists and more unconvicted offenders to replace them.

However, there appears to be one difference between rape, mugging, or tax evading on the one hand, and prostitution, burglary, drug dealing, car theft, or dentistry on the other.[10] Rehabilitated dentists, or car thieves, are replaced when they no longer provide the services for which there is (an unchanged) demand. Increased frequency of rehabilitation merely creates an opportunity for others to provide these services at a sufficient net advantage to attract them. The new rate of rehabilitation simply leads to a higher rate of first offenses by new entrants. As the net advantage stabilizes, the total number of practitioners becomes the same as before. Why did the additional dentists, burglars, or prostitutes not practice before? Had they done so they would have depressed the price by increasing the supply. They could have entered only at a lower price (net advantage), which did not attract them. Wherefore the total number of practitioners was what it was. Additional ones can enter now without depressing the net advantage of the occupation, since they merely replace the greater proportion of practitioners being rehabilitated.

The situation is quite different when we consider the supply of muggers or rapists. Because they do not sell their product, additional rapists or muggers would not have depressed the net advantage that lured the convicted ones who are now rehabilitated. Since there is no market for rape, or for the money muggers get from their victims, a nearly infinite number of new offenders could have entered without depressing the net advantage yielded by

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their crimes. Why didn't they? The failure of additional muggers, or rapists, to enter these activities before can be explained only by assuming that the net advantage was not sufficient to attract them, although it was sufficient to attract the practicing offenders (their number maintained by the normal replacement rate).

When total rehabilitation eliminates recidivists, the additional muggers and rapists required to maintain the current frequency of mugging or rape will engage in these activities only if the net advantage rises. Had the old net advantage been enough for them, they would have entered before. Their entrance would not have depressed it. This is where rape and mugging differ from dentistry or burglary.

The net advantage of mugging or rape will rise, only if the cost (the risk of punishment, or the size of punishment) declines. If it does not, total rehabilitation reduces

Fewer rapes and muggings may be committed if internal moral restraints become stronger for any reason . . . or if money or sex is valued less . . .

the frequency with which crimes are committed, independent of markets for proceeds or services. Thus, if the cost (punishment) remains unchanged, total rehabilitation (no recidivism) would mean less mugging and less rape—but not less prostitution, dentistry, or burglary. The extent of the decline of muggings or rapes and of all crimes independent of a market for proceeds depends on the proportion committed by recidivists before total rehabilitation eliminated them.

An assumption has been implied throughout that I must clarify now; namely, that there is a practically unlimited number of persons capable of committing crimes if the net advantage suffices. This assumption was never meant to suggest that every woman is ready to become a prostitute if the price is right, or every man a rapist, burglar, or car thief. We may suppose that many, perhaps most, persons reject crime (or, for the matter, dentistry) altogether, whatever the net advantage. Still, the number of potential offenders vastly exceeds the number of actual ones. My assumption implies only that the number of persons who can be attracted to crime so much exceeds the number now engaged in it, that replacement of those rehabilitated depends on no more than the expectation of a high enough comparative net advantage. Therefore in prostitution, burglary, or dentistry, an unreduced net advantage suffices for an unchanged rate of activity engaged in by a constant number of practitioners, regardless of 100 percent rehabilitation rates. But the net advantage of rape or mugging would have to increase to attract the additional rapists and muggers needed to replace all the rehabilitated recidivists.[11]

In most crime categories, potential offenders exceed actual ones by a wide enough margin to regard the supply as practically unlimited. However, this is not the case in some crime categories. In these categories, rehabilitation could reduce the number of offenders. Probably there are more potential child molesters than actual ones. Still, the number of potential molesters is likely to be quite limited, for child molesters must have an idiosyncratic personality that is not all that common. Hence, the greater the number rehabilitated in any period, the fewer remain to engage in child molesting. However, most criminal activities can be learned by many more persons than engage in them. Wherefore the crime rate is not changed by rehabilitation.

Everything that has been said about rehabilitation holds true as well for incapacitation. Offenders are unable to commit crimes (at least extramurally) while incapacitated by imprisonment, and unwilling when rehabilitated. I have used rehabilitation rather than incapacitation to suggest the effects of retirement on the crime rate because incapacitation, in addition to making offenders unable to commit crimes, has a punitive function. The two functions of incapacitation can be theoretically separated, but they are fused in practice. They often also are conflated, if not confused, in theory. The effect of incapacitation *per se* on the crime rate must be discounted, as the effect of rehabilitation must be, and for the same reasons. But the value of confinement as a cost-of-crime-to-the-criminal increasing (net advantage decreasing) device remains unchanged because of its punitive function. Indeed, confinement is now the main instrument available to decrease the net advantage of crime.

Expected comparative net advantages can be changed by social developments other than changes in the size, or probability, of punishment. Fewer rapes and muggings may be committed if internal moral restraints become stronger for any reason (an increase in psychological cost), or if money or sex is valued less[12] (a decrease in expected advantage), or if either becomes more easily available to prospective offenders without committing offenses (a decrease in comparative advantage). If, for instance, every prospective mugger or burglar (we can now ignore the differences) were to experience an increase in his lawful income, the comparative advantage of the offenses would decrease and (if we discount the expressive component of the crime) so would the rate of mugging or burglary. Sociologists who stress the "social causes" of crime propose this kind of thing to reduce the crime rate. Their reforms might work if pushed far enough. There might be less mugging if prospective muggers would earn, or be granted, a lawful income of $100,000 annually. But if that income were above the median, those whose income is below may still be tempted.

Spendthrift Jack and Others

It is unlikely that this social strategy can reduce the crime rate in any real situation. It is a *comparative* net advantage that matters. Whatever social reforms one envisages, differences in income are likely to remain great enough to produce an expected comparative advantage of mugging, or burglary, sufficient to attract the same number of offenders as before—unless the cost of offend-

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ing increases so as to decrease the net advantage. Thus, there has been no decline of these crimes as societies have become more egalitarian and prosperous, for example, in Scandinavia.

Imagine, if you please, a society in which there is only one income difference left: Middle-aged men earn double as much as young men (because of greater skills or family needs). The expected comparative advantage of mugging might well remain sufficient to produce the same rate we have now. Conceivably this may be the case, even if everybody earns the same income. People spend at different rates and times. Hence, Spendthrift Jack may still be tempted to rob Thrifty Bill. Present muggers often do not earn less than their victims and could lawfully earn more. It is hard to see, finally, what economic reforms could do about rape, or any crimes committed for the sake of noneconomic advantages. Nor do social reforms (for example, greater sexual permissiveness) lead to a reduction in these crimes.

Thus, we are left in the main with manipulating the size and frequency of punishment. Increases of either, in addition to direct effects on the net advantage, have important indirect effects: They strengthen the moral value of lawful behavior. These increases are costly, but they cost less than the crimes they eliminate. Other changes, be they religious conversions or income redistributions, whatever their independent merits, are unlikely to go far enough to influence the crime rate significantly, however much they could do so in principle.

I believe I have shown that the incapacitation or rehabilitation of recidivists *per se* (that is, apart from any deterrent effects) is not likely to affect the crime rate if the comparative net advantage of crimes is left unchanged. However, it is possible that the net advantage of crime for recidivists is higher than it is for others. Recidivists may have fewer moral restraints (that is, lower psychological costs) or fewer noncriminal opportunities (that is, higher relative advantages from crime) than others; or they may place a higher positive value on committing crimes than nonrecidivists do. Recidivists may like to take risks or to defy the law.

Moral Fates

If the net advantage of crime is higher for recidivists than for other offenders, the more recidivists are incapacitated, and the longer they are, the lower the average net advantage of crime to the criminal population. Those whose net advantage is highest are eliminated. Hence, advocates of lengthy incapacitation of habitual criminals have a valid point. Crime can be reduced by incapacitating career criminals, thereby reducing the average net comparative advantage of crime, both by increasing the cost (through more frequent or severe punishment) and by reducing the proportion of criminals in the population who expect the highest comparative advantage from crime.[13]

Let me drop now the two unrealistic assumptions I kept so far: that rehabilitation is 100 percent successful, and that most crimes are committed by recidivists. Suppose, more realistically, that a hefty proportion of crimes are committed by unconvicted offenders and that only a few of those convicted are rehabilitated. These realistic assumptions will make no difference with respect to the frequency of crime not reduced even by total rehabilitation: first offenses and all crimes committed in order to sell proceeds or services to third persons.

However, it was suggested above that total rehabilitation would reduce the rate at which rapes or muggings are committed—unless the net advantage is increased by a decrease in cost to the offender, sufficient to attract the new offenders previously not attracted, who are needed to replace those rehabilitated if the rate of crime is to be maintained. If, however, few convicted muggers or rapists are rehabilitated, or if many of these offenses were committed by unconvicted offenders, this effect becomes negligible.

Does rehabilitation lose all value if it has no effect on the crime rate? Not if one is concerned with saving

The basic purpose of criminal laws and punishments is twofold: to do justice according to what is deserved and to deter from crime.

individual souls, with influencing the moral fate of individual convicts. If the moral value of rehabilitation does not depend on its impact on the crime rate, it remains unchanged. Private secular as well as religious organizations are legitimately interested in the moral fate of individual convicts. Perhaps the field should be left to them. Their rehabilitative work should be permitted and possibly encouraged.[14]

But it should not be allowed to interfere with either of the two social purposes of criminal sentences: doing justice and reducing the crime rate. Such institutions as work release, halfway houses, probation, parole, indeterminate sentences, or judicial discretion in sentencing are left unjustified to the extent to which they were meant to influence the crime rate by fostering rehabilitation.[15] So is, most certainly, the peculiar immunity often granted juveniles. These practices could not reduce the crime rate, even if they did rehabilitate; hence they cannot be justified on any consequentialist social grounds. Neither do these practices contribute to justice.[16] Hence they cannot be justified on any social grounds, consequentialist or deontological.

The basic purpose of criminal laws and punishments is twofold: to do justice according to what is deserved and to deter from crime. "Doing justice" is essentially a moral matter (although the perception of justice influences people's willingness to abide by the law and, thereby, crime rates). Justice is important to the individual's and to society's moral sensibility. Deterrence, in contrast, is intended to have a direct effect on the crime rate.[17] Unlike justice, it is an instrumental purpose of punishment. Deterrence raises the expected cost of crime, thereby decreasing the net advantage. There are two kinds of

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deterrence: preclusive and minatory.[18] (The terms are mine, but not the distinction.)

Preclusive deterrence hinders crimes by making them harder to commit. Dogs, locks, safes, self-defense, private security arrangements, high walls, and fences are included in preclusive deterrence, which usually is undertaken at his own expense by the person trying to protect himself, or his property, from crime. Preclusive deterrence does not directly involve the law or the courts.

Minatory deterrence is undertaken at public expense and inherent in the criminal law, which threatens those who do what it prohibits with punishment for the purpose of deterring them. The actual infliction of punishment on a sufficient proportion of offenders makes the threats of the criminal law credible, and thereby deterrent.

Just as there can be no doubt that the credible promise of rewards attracts, so there can be no doubt that credible threats will deter—although no threat is likely to deter everyone at all times. Thus, if a sizable fine were credibly threatened to anyone found listening to my lecture, few people would attend. If five years of prison were threatened, hardly anyone would. People can be similarly deterred from other offenses, although, to be effective, the threat must more than offset the attractiveness of the offense, and it must be carried out against a sufficient proportion of offenders. If the risk of suffering nontrivial punishment becomes high enough, "crime does not pay" and is less frequently committed.

Our only hope for reducing the burgeoning crime rate lies in decreasing the expected net advantage of committing crimes (compared with lawful activities) by increasing the cost—by increasing the expected effective size of punishments and the risk of suffering them. The cost is low enough now to make crime pay for a rising number of persons, because of legal practices that were justified by the hope of rehabilitation, and the mistaken idea that rehabilitation could reduce the crime rate. These legal practices, which have made the threats of the law less than daunting, must be abandoned if the crime rate is to be reduced. Probation must become exceptional, parole and indeterminate sentences must be abolished, and so must judicial sentencing discretion and the numerous other programs meant to reduce the crime rate by rehabilitation. A higher apprehension and conviction rate is needed as well. It could be produced readily by changes in counterproductive legal and judicial practices, which, in Joseph W. Bishop's words, make ". . . the incarceration of even the most obviously guilty criminal a task comparable to landing a barracuda with a trout rod and dry-fly . . ."[19] I believe we will move in that direction. Meanwhile, it may help if we stop relying on such dead-end streets as rehabilitation and the practices connected with it.

This is a revised version of an article that appeared originally in the Journal of Criminal Law and Criminology. *We are grateful for their permission to reprint it.*[20]

References

1. Rehabilitation programs are attempts to produce law-abiding (or more law-abiding) behavior of convicts usually by nonpunitive means. Rehabilitation is complete when, owing to the program, there is no recidivism. "Recidivism" is shown by any conviction after release. Nonrecidivism occurring without rehabilitation programs, be it because of age, of unknown factors, or of the punitive sanction itself ("special deterrence"), need not be distinguished from rehabilitation for the present purpose. (Occasionally "rehabilitation" refers to retirement from any occupation.)
2. For a discussion, see my *Punishing Criminals* (New York: Basic Books, 1975). On the empirical issue, I fully concur with James Q. Wilson's "What Works?—Revisited" (*The Public Interest,* Fall 1980).
3. Felony murderers often are recidivists, but they constitute only about a quarter of the homicidal population—although stranger murders seem to be increasing. Except for felony and rape-murderers, most murderers are convicted after their first crime and apparently "rehabilitated" by it. They are unlikely to recidivate, regardless of whether or not they are punished.
4. Let me apologize here for not presenting more than vague quantitative guesses. Quoting the statistical data currently available merely would lend a spurious air of precision to my estimates; wherefore I have decided on an analytical presentation. However, the actual data would have to be very different from present estimates to seriously affect the conclusions to be drawn.
5. I follow the procedure of economists here. They do not ask, "Why did Smith become a delicatessen salesman and Jones did not?"but rather "What determines the number of delicatessen salesmen in the population?" Taking motivation for granted, economists concentrate on changes in the attractiveness of occupations.
6. The expected comparative net advantage differs from person to person, and depends on an immense number of conditions, most of which are fairly constant, so that a change of one variable (e.g., income) may greatly affect the expected total net advantage. In this respect, there is little difference between criminal and lawful occupations.

   I have not attempted to document the role of the expected comparative net advantage, confining myself to illustrating and applying the concept. Aside from formulations that would make the proposition, "the number of persons engaged in any activity . . . depends on the comparative net advantage they expect," analytically true, the empirical evidence is so obvious as to be a matter of common sense and universal practice. Few readers would deny that a greater net advantage would make any occupation or act more attractive to them. (Those desiring more discussion of the implications will find it in most textbooks of economics.)
7. Theft of services consumed by the thief may be included in this class, as may many kinds of fraud and white-collar crimes.
8. In respect to the net advantage, the rapist does not differ from the customer of the prostitute. His cost is the money he pays her. The rapist's cost is risk taking, and he does not pay it to the victim who involuntarily renders the service sought. (The mugger's cost, too, is risk taking.)

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9. Some crimes, as do some lawful activities, such as acting, may attract more persons than the average comparative net income advantage would warrant, because of a strong expressive component, or because despite low average money gains people are attracted to the possibility of high exceptional gains as in a lottery. But this factor is fairly stable. The rate of acting, or crime, still changes with the average net advantage.
10. Drug dealing differs from either type of crime for a logically irrelevant reason. The profit is so great that no penalty is likely to reduce the net advantage enough to diminish the number of dealers. Increased apprehension and conviction rates might have some impact, but it is unlikely that they can be increased enough to matter. Drug dealing can be diminished only by reducing the demand for drugs—by seriously penalizing consumers, as well as dealers. Changes in the penalties or risks of dealers are unlikely to be effective.
11. I am assuming that additional rapes or muggings could be perpetrated without increasing the risk of punishment. An increased risk would decrease the net advantage, and thus the crime rate.
12. Rape is probably more often a form of self-assertion. But it, too, can be valued more or less.
13. Rehabilitation of career criminals may have similar effects. Although it would not increase the cost of crime, it still would reduce the average net advantage expected from it, by eliminating those with the highest expectation. Note finally that from a strictly deterrent viewpoint the higher net advantage habitual criminals expect from crime justifies increasing the cost to them.
14. Rehabilitation may save the soul or morally improve the life of a convict. However, by rehabilitating him, one also, albeit indirectly, corrupts the soul, or morally worsens the fate, of an unidentified person who is induced to replace the convict in the ranks of criminals.
15. Incidentally, there is no evidence that these institutions foster rehabilitation, whatever their value. See Wilson, *op. cit.*
16. Justice is done according to what the offense deserves, whereas parole (etc.) depends on a judgment of the offender's future behavior, or on an attempt to influence it. Whatever its merits, such an attempt is irrelevant to what is deserved by past acts—to justice.
17. Contrary to received opinion, I believe that deterrence and justice theories of punishment tend to lead to similar sentences. See my "Punishment as a Device for Controlling the Crime Rate," 33 *Rutgers Law Review* (1981).
18. By deterrence I mean "general deterrence": the effect of threats of punishment, or of punishment itself, functioning as a threat, in restraining nonoffenders from becoming offenders.
19. *Commentary,* July 1974, pp. 101-104.
20. For a mathematical treatment of the same subject, see Isaac Ehrlich, "On the Usefulness of Controlling Individuals," *American Economic Review* 71 (1981).

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Educational Disinvestment

Who Benefits from Subsidies? Does Anyone?

Warren C. Robinson

An enormous outcry has greeted the recently proposed cutbacks in federal subsidies to college education. The administration has been accused of anti-intellectualism and ignorance of the value of education. Almost without exception the leading spokespersons for the conventional economic wisdom have joined forces with the educational institutions and student and teacher groups to urge that no cuts in education spending be made.[1]

. . . rather than increasing productivity, higher education [is] important in explaining the U.S. productivity slowdown in recent years.

Leaving aside the question of budgetary exigencies, there is growing evidence that the United States has overinvested in education at the college level. The private and also social rates of return from investment in college education are falling sharply. An increasing number of people find themselves in jobs far below their skills and training. The realization that neither an undergraduate nor a graduate degree is an automatic escalator to well-paying managerial jobs has created a growing number of discontented, frustrated workers at the lower managerial and upper skilled-worker level—the very people who, as links between the assembly line or production floor and the corporate planners, are crucial to productivity. One can therefore conclude that rather than increasing productivity, higher education and the false expectations it creates are important in explaining the U.S. productivity slowdown in recent years. Furthermore, this implies that spending on education should be reduced so that workers will not be educated beyond what the system is likely to require of them, lest overeducation lead to still greater discontentment and still lower productivity.

America was one of the first countries to accept and pursue the twin goals of universal literacy and higher education open to all social and economic classes. The land-grant and state-supported universities date from the middle of the last century; state normal schools to train teachers are even older. For a long time, until nearly the end of the last century, most people who pursued higher education—that is, beyond grammar school—did so because they expected to become ministers, doctors, or teachers. The fortunate few studied the classics because such learning was the mark of a gentleman even if it had no practical value. Yet the relatively large number of institutions of higher learning made access to college relatively easy if one were so inclined and could pay.

As our society became technologically and scientifically more complex, learning the new and useful applied science and engineering skills also became an important reason for going to college. A score of specialized academic disciplines based on these new fields came into being, each anxious to prove itself useful in the practical world. Education became the key to occupational advancement because the skills required were difficult to learn on one's own or even as an apprentice. And in many other fields, whose technical requirements were not easily taught in schools, a college degree became a necessary credential for consideration for employment because employers had learned that college was a proving ground that allowed them to hire somewhat more mature and intelligent managers, supervisors, and white-collar workers. These credentials also quickly became a means of restricting entry into many occupations and reducing labor market competition.[2]

For both reasons—college as credential and college as skill acquisition—college graduates demonstrably were more upwardly mobile in occupation, income, and social status than their nonbaccalaureate contemporaries. The lesson was clear: One could invest in one's future by obtaining a college education, or at least one could do this for one's children.

This combination—a flexible, easily accessible higher education system, plus the high returns to education occasioned by the rapid technological progress of the nation—led to a very happy outcome. College enrollments grew, as did the supply of trained and credentialed workers; the economy flourished; and for the most part, those who had obtained higher education realized the American dream.

This is the model that most young people today still wish to emulate. A mystical belief in education as the sure guarantor of later success and upward mobility continues to permeate our thinking. Yet there is considerable evidence that this situation no longer obtains. What was true when only 5 percent of the population went to college is not true when 50 percent attend.

Two reasons why young people should seek a college education have been advanced: First, the experience itself

WARREN C. ROBINSON, *on leave from his position in the economics department at Pennsylvania State University, is an adviser to the government of Bangladesh.*

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is pleasurable and rewarding in personal terms; second, a college education will significantly enhance their future earnings stream. Both of these represent returns on the investments of time and money required to obtain college education. Presumably, for most college applicants, these anticipated returns exceed the cost—a calculation probably made more by the parents than by the applicants themselves. Peer pressure may also affect the decision. But those qualifications do not change the basic logic: Spending time and money on a college education must be based on the expectation that something of value—an investment value or a consumption value—will be obtained. There is (or should be) no reason for thinking that higher education involves any mystical values above mundane economic calculations. Present-day college students expect to earn significantly more as a result of acquiring a college degree than they would have without the degree, and they expect to earn more than did their fathers. They believe they are investing in their future.[3]

One of the best-kept secrets of recent social science research in the United States is that the private return from investment in college education has been falling steadily and sharply for more than a decade, a fact largely ignored by policy makers.

Twenty years ago the average college graduate was earning 50 percent more than the average high school graduate. Since then the difference has halved. The distribution of earnings for male college graduates and high school graduates now overlaps substantially; that is, a significant percentage of the college graduates could have done just as well with only a high school education.

This finding is disturbing to the almost mystical faith in education, and many scholars have attempted to refute it, but the evidence remains fairly clear.[4] It supports what we already know firsthand: Many young people are acquiring education, at growing cost, only to find that they have not significantly improved their economic situation. The public hears about the more bizarre cases, such as the taxi driver with a Ph.D. in history or the self-employed chimney sweep with an honors B.A. from an Ivy League college. Of more significance are the hard data suggesting that the average return for all types of college training has fallen and continues to fall. Today the average investment in a college education yields a return below many other available investments, and for many people it is a downright loss. By the mid-1970s, when the effective yield on many government securities was consistently 12 percent and higher, the rate of return to individuals for investments in college education was consistently below 10 percent and falling.

Overqualified

The generalized phenomenon we are describing results also in a mismatching of skills with jobs. That is, the U.S. labor force has become progressively more and more overqualified and overtrained for the jobs they actually end up holding. Clifford C. Clogg and James W. Shockey, using the current population survey data for the United States, conclude that about 17 percent of the full-time regular labor force was mismatched in 1980, nearly double the 1969 figure.[5] Since the average rate of increase per annum was close to 1 percent, a current estimate that one in five workers is mismatched seems reasonable. Messrs. Clogg and Shockey find that the younger age groups suffer from the most mismatching. In 1980 some 25 percent of the full-time, regular workers aged 25 to 34 were mismatched—double that of 1969. Mismatching among members of older age groups has also risen, indicating that increasing experience and seniority are not sufficient to overcome the initial overqualification of workers.

Moreover, the minority labor force groups—white females and blacks of both sexes—experienced rapid increases in the prevalence of mismatching from 1969 to 1980. The incidence of mismatching in these groups is still below that for white males, but it is growing. The black male mismatch rate increased from 9.5 to 12.4 percent between 1975 and 1980; that for black females rose from 6.7 to 11.1 percent; that for white females increased from 7.7 to 10.4 percent. Given these trends, women and black men will soon be as overqualified and mismatched in their jobs as white men.

If the returns on individual investment in education have fallen . . . why do young people continue to pursue college education?

Mismatching is still greater among college graduates. Quoting the Clogg and Shockey data once again, we find that in 1980 nearly 50 percent of U.S. workers with sixteen years of education or more were overeducated for the jobs they held. Among those with thirteen to fifteen years of education, some 30 percent were mismatched, whereas among workers with only a high school education or less, some 10 percent were mismatched. These findings obviously support the notion that people are not employed in the jobs for which college trained them. It follows that they are not receiving the rewards they expected, either.

That conclusion leads to an interesting question: If the returns on individual investment in education have fallen so steadily and prospects for graduates are so dim, why do young people continue to pursue college education? Perhaps prospective college students are overly optimistic, or enough time has not yet elapsed for them to respond to the present circumstances.[6]

The active role of the public sector in encouraging young people to attend college is another factor that continues to play a role in creating this demand for college. The federal government has provided direct scholarships, grants, and low-interest, long-term student loans; created subsidy programs to colleges and universities; and funded scientific research, most of which is a covert subsidy to educational institutions and their faculty members. Government has thus lowered the cost of college for many prospective customers, and through

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various educational and counseling programs it has propagandized the advantages of a college education.

From modest beginnings in the 1950s these programs grew rapidly in the 1960s and 1970s. In 1960 education accounted for 1 percent of the federal budget; by 1979 it was 6 percent. Spending grew with hardly any opposition. The presumed beneficiaries were the youth of America; the immediate beneficiaries were the colleges, universities, and their faculties, which became a well-organized lobby. Even more important, there seemed to be sound economic reasoning for such public support. The "economics of education" paradigms seemed to show conclusively that the increasing educational attainment of the U.S. work force had been responsible for a large part of the sustained increases in productivity per worker and, hence, in income and standards of living. Thus, subsidizing education seemed to be an unmixed good: College-trained workers would produce more, earn more, pay more taxes, and be healthier, happier citizens as well.

Whatever can be said about "happier" workers, education will not be a profitable investment unless it leads to more productive workers.

This, in a nutshell, continues to be the economic justification for public subsidies to education. The social rate of return allegedly justifies the spending even if the private rate does not. It is, in fact, often cited as a classic example of social benefits' exceeding private benefits and hence a prime case for public subsidies.

The expansion in college attendance was rapid. In 1960 some 3.2 million people were enrolled in college; by 1970 the figure was 7.2 million—more than double. In 1950 there were 5.3 million college graduates in the United States; by 1980 this figure had tripled to 17.5 million. In 1980 the nation was producing more than a million college graduates a year, compared with just over 400,000 in 1950.[7]

The key link in this argument is between education and productivity. Whatever can be said about "happier" or more socially conscious workers, education will not be a profitable social investment unless it leads to more productive workers.

Over the long run of U.S. economic history, productivity in industry has grown at an average annual rate of 2 to 3 percent per worker. It is this sustained increase in the efficiency with which resources are used that has provided the long-range increases in the U.S. standard of living.[8] Yet the real causes of increases in productivity remain obscure. Even when work experience, capital per worker, and numerous other factors are taken into account, a large unexplained statistical "residual" remains. The economics of education paradigm suggested by Theodore Schultz and others served to plug this gap in the theory. This approach, broadened into the human capital theory,[9] argued persuasively that rising levels of education of the American labor force explained a large share of the increased output per worker over time. Thus, increasing education per worker should be thought of as capital formation—just like adding to plant and equipment. By encouraging such investments, society benefits from the increased total human capital created.

These simple, seemingly straightforward arguments helped provide the theoretical underpinnings for the increased level of government funding to education. Also relevant to this history is the politics of the era: Concern was expressed in the late 1950s and early 1960s over the "lagging" U.S. growth rate; Nikita Khrushchev had challenged the United States to an economic race and threatened to bury us in history; and John Kennedy was elected president with the promise to "get America moving again."[10] Thus, the emergence of the problem—lagging growth—was followed at once by the solution: increased spending on education, research, and development. This spending took the form of increased research money for the major universities, fellowships for graduate education, and later, a federal scholarship and loan program for undergraduate students. This program actually grew slowly and reached its apogee in the late 1970s, when some 6 percent of the federal budget was going for higher education.

The scholarship, loan, and subsidy programs have been broad in scope and coverage. Contrary to some opinions, they have not chiefly benefited low-income students or struggling, poorly endowed private colleges. It is mostly middle-class youths who go to college, and it is mostly these same middle-class youths who have benefited from the aid. To obtain federal subsidies, a college must be able to afford to hire specialists in grant applications. Moreover, colleges with strong academic reputations and impressive plants and equipment compete most favorably. It is therefore not surprising that Ivy League colleges and major state-supported universities have had more success in obtaining federal funds than struggling small colleges.

Slumping Productivity

The irony is that it was at just about this time that the real slowdown in U.S. productivity began. Since the mid-sixties the average annual increase in real output per worker has been less than 1 percent; in some years there has been a decrease.[11] It is no accident that the period of the most rapid investment in human capital has been followed by the most sustained slowdown in productivity in U.S. economic history—a slowdown that has not yet ended. The economics of education literature has yet to face this recent trend. Indeed, economic justifications for continuing government subsidies to higher education are credible only if one ignores these facts.

The economics of education paradigm argues that output per worker is dependent on capital per worker, including the human capital of education as well as the physical capital of machinery, plants, and equipment. Traditional capital theory states that when capital per worker exceeds an ascertainable amount, the marginal

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productivity of capital declines. This is nothing more than the familiar law of diminishing returns to a variable input when other inputs are fixed. The usual textbook example considers labor the variable input and capital the fixed one. In this case, the marginal productivity of labor begins to decline as more labor is used per unit of capital.

The law of diminishing returns applies also to human capital, or education, per worker. That is, as more and more is invested per worker, the additions to output that result from these investments in education begin to fall. Beyond a certain point, then, continued social investment in education will yield declining increases in output and a decreasing return per dollar of spending. The essence of the highly optimistic human capital theory approach was to argue that the increasing level of education would itself shift the production function upward, thus offsetting the usual decreasing returns.

There is a basic point, however, ignored by this theory. The productivity of workers, unlike machines, depends partly upon their attitudes, their job satisfaction, and their actual situations compared with their expectations. All of these elements can be lumped together as morale.[12] Morale suffers when workers' expectations are frustrated, their earnings are below those anticipated, and they are overtrained and overqualified for the jobs they hold. That this is indeed the case today is a conclusion supported by a growing body of research.[13]

There is also survey-based evidence of declining morale and job satisfaction among U.S. workers. The quality of employment survey done periodically by the University of Michigan's Institute for Social Research has asked respondents whether they thought their skills and abilities were being utilized in their present jobs. According to R. P. Quinn and G. L. Staines's summary of these data, 22 percent of the workers surveyed in 1977 felt that their jobs did not utilize their skills. Among workers with work-related problems, 36 percent felt that their skills were underutilized. Some 32 percent felt that they were overeducated for their jobs. No survey has been done since 1977, but a comparison of the 1977 findings with those of 1969 and 1973 reveals a rising trend.[14]

Attitude Adjustment

The mismatch data discussed earlier tie in nicely with surveys measuring morale and job satisfaction. Among the leading mismatched occupational groups were managers, 17 percent of whom were overtrained. The managerial group includes nearly all supervisory personnel—most foremen and supervisors as well as store or plant managers. This manager category is the most crucial element in industry—the link between workers and top executives. These managers are only a step above the actual workers but probably view their positions as management-entry jobs. As their aspirations become frustrated and their qualifications do not lead to promotion, serious morale problems are inevitable. And as go the managers and supervisors, so goes the organization.

Thus, the actual result of reaching a higher educational level may be to increase worker frustration and dissatisfaction and to decrease productivity, reducing output at all educational levels. This seems to have occurred in U.S. industry in the last ten to fifteen years.

Another argument for public sector investment in education has been the notion that everyone should have access to higher education. The open-admission policies adopted by some colleges in the 1960s represent the extreme of this line of thinking. Existing grant and loan programs to students have also been defended on these grounds. Yet this is specious. As observed, most students benefiting from the present aid programs have been middle-class students, not low-income ones, and the programs have been highly uneven in their institutional impact. One could, in fact, design a system of federal scholarships for low-income students based on both need and academic achievement—perhaps an expanded and redirected National Merit Scholars Program. Such a program could create access to college for low-income students without artificially lowering the price to all students.

A program of [merit-based intervention] would be a far more effective vehicle for economic opportunity for the low-income scholars . . .

In fact, such merit-based intervention would be much less costly to the government, since the number of such needy but deserving scholars would never approach the total number of students now subsidized. It would also be a far more effective vehicle for economic opportunity for the low-income scholars, since once they achieved their education, the real rewards would be high, and genuine upward mobility could result. This form of intervention would not affect the price of college to most students and would not continue the present subsidized increase in overall college enrollments, graduates, and falling rates of return.

What of the argument that if college is expensive, mostly the rich will go? The answer is, let the rich go. For the most part the really rich are rich because of investments in tangible and financial assets rather than just education. Over the years such people have helped build the major universities, using money that they would probably have had in any case, college degree or no college degree. The middle class should seek college only after a careful calculation of whether it is a good investment. If it is, they can "afford" it. Truly low-income households should, as public policy, be given access through the merit scholarships discussed earlier.

It remains now to tie up the several loose threads of argument presented in the earlier sections. We have made the following points:

- Since the mid-sixties the federal government has heavily subsidized college education in the United States. As a result there occurred an enormous expansion in college enrollments and graduates. The increase was jus-

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tified as a paying proposition for both the individual (in higher average earnings) and society (in higher average productivity).

- Recent data for the United States show conclusively that the rate of return on college education is falling sharply. College graduates, after a considerable investment of time and money, do not, on the average, do that much better than high school graduates.
- This same trend toward overproduction of college graduates finds expression in a growing prevalence of mismatching of skills and training with jobs and occupations pursued. Between 20 and 25 percent of full-time U.S. workers are overtrained for their jobs, and the percentage has been growing. Nearly half of all college graduates are overeducated.
- This knowledge does not seem to have reached the incoming students. Most students still view their education as an investment, not pure fun, and they expect to earn more with a college degree than without it. These expectations are sure to be frustrated.
- The number of workers in America who find their jobs dull or feel they have no future has been growing. A significant percentage of the U.S. labor force now expressing sharp job dissatisfaction is concentrated in the managerial and services occupations.
- U.S. productivity has not increased with the educational qualifications of the labor force. On the contrary, the 1970s was a period of essentially stagnant economic growth and constant or falling real rates of labor productivity. This decline continued into the 1980s.

The conclusion follows easily. The use of the public sector to promote investment in education has had exactly the opposite effect from what was intended. By increasing the supply of college graduates and encouraging them to expect positive rewards for their efforts, we have guaranteed a large group of overqualified, frustrated workers who will never be content with the jobs the system can provide them. The effect on morale and worker incentives has been negative, and productivity growth has declined. A work force that is overeducated for the tasks required of it, and has unreasonable expectations, ends up being relatively unhappy and unproductive. This describes the situation in the United States today.

Artificially Cheap

What is the policy implication? Reduce subsidies to higher education and stop promoting it. When most students are fully paying their way, they will insist on full information about future rewards and make better decisions. When colleges must charge the full cost of the programs, they will deliver a better product at a lower unit cost. In short, the federal government should stop artificially lowering the cost of a college education. The sooner expectations and rewards from investment in college education are brought into equilibrium, the sooner also will the supply of graduates balance the economic demand for them.

The strident attacks on this policy prescription must be recognized and rejected for what they are, pleas from the education industry—administrators, teachers, researchers, bureaucrats, and misguided students—for special subsidies and favored treatment. Compared with education, even subsidies to the steel and automobile industries may be a better social investment just now.

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6. The time lag, in fact, must be substantial. The decision to go to college is presumably based on current labor market conditions as perceived by the prospective students and their parents. This information will be five years out of date by graduation.

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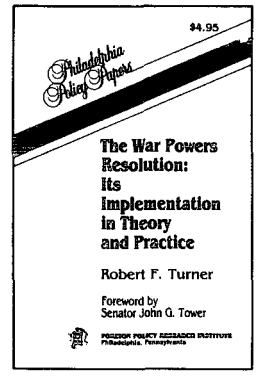
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The Naturalist Fallacy

Rabid Raccoons and White-Tailed Deer

Judith Chettle

It is sometimes too generous to regard good intentions as material only for the proverbial paving stones to hell. In an age that puts so great a premium on feeling good, looking good, thinking good thoughts but not necessarily being good, good intentions can do more damage than the most zealous malevolence. Nothing is free from the blight of energetic good intentions, and one of the more long-suffering victims has been nature. Not the schoolmarm Mother Nature of the TV commercial, ill at ease with her Grecian wraps and plastic grapes, but the nature that hurls hurricanes at Hawaii, creates soft fluffy kittens, and destroys cities like Pompeii.

There was never any doubt of man's role: If nature could not be subjugated, she could at least be modified into a less threatening . . . force.

Like Janus, the Roman god with two faces, nature has always presented two aspects to us. One is the sunny, benevolent world where harmony between man and beast prevails, rain falls from soft cotton clouds when needed, and rivers flow placidly between their designated banks. It is, of course, the aspect we prefer. The other face—of devastating floods, volcanic eruptions, stalking predators, and plagues of flies—is something we choose to ignore. But the two faces complement each other, for the whole is nature at work: crudely yet with persistent energy asserting a vigorous control over the earth, a control that over the centuries man has usurped to some degree but never completely.

It is this duality that reminds us how much more appropriate the word "nature" is than "environment," which is one of those words that has more to do with the pseudointellectualization of the lexicon, verbal gentrification if you will, than what we really understand by the word. The use of the word environment also reveals some underlying assumptions of which we are not always aware. We feel that we can control an environment; we are uneasily aware that it may be tempting fate to claim to control nature.

But there are other assumptions we make in discussing the environment that are worth analyzing, for all too often they are overlooked in the heat of advocacy. Environmental policy has an intellectual and philosophical background that may be illustrated by two seemingly trivial recent preoccupations of the Washington area. These two issues symbolize the dilemma of those who shun the implications of a process of which man is but a recent part and rely more on good intentions to be their intellectual and spiritual guides.

The first issue concerns the fate of the uninvited deer that have been reproducing themselves too fruitfully on a 3,000-acre preserve maintained in Virginia by the Smithsonian in its capacity as curator of the National Zoo. Established for the breeding of its more exotic charges, the preserve has been deliberately planted with their particular needs in mind. Lush pastures of nutritious grasses and fields of alfalfa have replaced the less appetizing natural undergrowth. Not ones to pass up a good thing, the local white-tailed deer moved in, made themselves at home, and increased their numbers to the point that they threatened the natural balance. The nature of Bambi, Rudolf, and all the other insidiously miscast anthropomorphisms would never let such a situation arise; somewhere out in the rolling hills beyond the sunset enough sweet grass and tender shoots would exist for all to nibble to the tremulous trilling of bluebirds. But reality is otherwise. If nature had its way, the herd would soon be reduced by starvation or infested with diseases and parasites that would effectively but painfully solve the problem. The herd would be selectively culled, leaving behind only the most vigorous stock. It is a ruthless but necessary response.

The Smithsonian announced that the deer had to be thinned, and that local hunters would be invited to help. Few actions have so alarmed and outraged the local citizenry. The curators and other officials of the Smithsonian were denounced in terms more appropriate for describing the perpetrators of the Holocaust or the Lebanese massacre. Members of FONZ (Friends of the National Zoo) threatened to burn their membership cards in public, and congressional hearings were held. In the face of this outcry, the Smithsonian agreed not to hold the hunt and instead will try to find other homes for the deer. Until the recession killed the idea, $500,000 was to be spent on a fence to keep out the deer in the future.

Lurking Danger

The other issue was the rabid raccoon scare. Raccoons are not only moving into the suburbs in large numbers but also transmitting rabies to domestic animals and

JUDITH CHETTLE *is a Washington writer whose work appears regularly in the* Washington Post, *the* Christian Science Monitor, *and* National Review.

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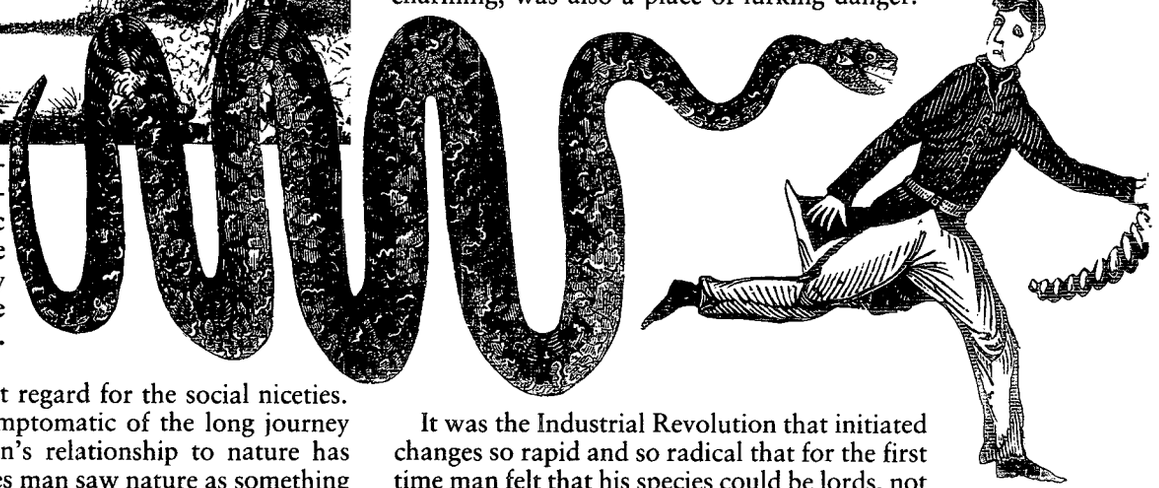
humans. Those humans whose knowledge of animals is as woolly as the toy-store prototypes are in panic. Children are being warned to be on their guard outdoors, and all pets must be immunized, even your poor house cat who never puts a paw past the front door. Walks in the country, even short ambles down suburban roads, are to be undertaken with all the caution of Falkland Islanders approaching their mined beaches. Raccoons, we are told, have been known to dart out from storm drains and take a nip at a passing leg. This is nature with the snarl, the bloodied claw, and scant regard for the social niceties.



Two Victorian views of nature: The first shows Robinson Crusoe in an idyllic setting with his pets; the second depicts Davy Crockett's narrow escape from a protected species.

Both reactions are symptomatic of the long journey that the concept of man's relationship to nature has taken. From earliest times man saw nature as something that, if not conquerable, must at least be restrained and organized if the species were to endure. Since rainfall was not always predictable, canals were built, wells dug, and aqueducts constructed to carry water to distant areas. Enough food for permanent settlement was also possible only when grains were cultivated and certain animals domesticated for their milk, meat, fleeces, hides, and strength. To provide shelter for himself and enough open lands for his crops, man cut down trees, baked bricks from clay, and quarried the hillsides for stones. There was never any doubt of man's role: If nature could not be subjugated, she could at least be modified into a less threatening and more cooperative force. Christianity and Judaism both reaffirmed man's stewardship, and though some Eastern religions preached the sanctity of all life, all accepted some necessary modifications of man's surroundings.

It is very easy to forget when we are surrounded by high rises and asphalted lots that for thousands of years wild animals on all continents were a real threat. In Africa today crocodiles still snatch the unwary drawer of water in the countryside, and in recent times man-eating tigers have terrorized parts of rural India. Animals, wild and domestic, were potential killers, not embodiments of sentimental reverence. Children growing up in the country knew how violent bulls could become when roused, and how horses could throw and kill their riders. They observed how hawks killed small birds and young animals by swooping down suddenly from the clear sky, how foxes stalked the hen and her chicks, how their own tame pussycat pounced on nestlings, and how out on the range, coyotes struck brutally at grazing sheep. The psalm "Sheep May Safely Graze" expressed a serious and heartfelt wish. Nature was acknowledged as being able to give in abundance and withhold without mercy. And a writer like Beatrix Potter, whose animal characters have delighted children, made it quite clear that Jemima Puddleduck was nearly the fox's victim, and that the mice in the fancy town house lived dangerous if exciting lives as the cat patrolled the house. Even Pickles the dog, who appropriately became a gamekeeper, was regarded with rightful suspicion by the other animals. Mr. McGregor was not the only enemy in a countryside that, however charming, was also a place of lurking danger.

It was the Industrial Revolution that initiated changes so rapid and so radical that for the first time man felt that his species could be lords, not stewards, of the earth. But as inventions followed fast upon one another, a counterpoint movement occurred. By the mid-eighteenth century most thinkers and writers were more Deist in their beliefs than theologically strict Christians. It was not difficult then to make the move toward an even more diffuse expression of belief. Nature became the source of the Good, of spirituality, of the wellspring of life. Writers and thinkers like Goethe and Rousseau, who proclaimed the beauty and innocence of the natural savage, gave this romantic movement a more

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philosophical base, but it was the English romantic poets, Wordsworth, Coleridge, and Byron ("I love not Man the less but Nature more") who articulated so eloquently and lyrically the ideas that shaped and inspired this new attitude toward nature. It was an attitude based on nostalgia for an imaginary Golden Age, a mythical standard of comparison by which succeeding generations could measure their current misery.

For the first time nature, wild and grand, and peoples remote and unwesternized (the islands of Tahiti had recently been discovered) became celebrated for precisely those qualities that were the antithesis of the newly industrialized Europe and its growing urban lower-middle class. Such attitudes were possible precisely because man had reached a comfortable sufficiency of material goods by the late eighteenth century, and it was possible at last to look beyond the now-civilized countryside with its neat hedgerows, plowed fields, and marked roads and acknowledge nature's magnificence—at the appropriate distance.

Landscape, once a minor detail in medieval paintings and later works, now came to the fore. Turner, Constable, and later the luminists in the United States gave it the central position, investing it with symbolic meanings precisely because man had so safely distanced himself from its depredations and dangers. He could now look at it with a patronizing complacency and an appreciation based on reason rather than experience. The lions Landseer painted and sculpted were the lions of the zoo or the circus ring, not those of the open veld, where one had recently mauled the young missionary David Livingstone. Only a highly civilized and cultivated society could be permitted the luxury of so many misperceptions.

The Sierra Club, the Club of Rome, the Friends of the Earth (and the whale and the white-tailed deer of Virginia) are the heirs then of the great Romantic movement of the eighteenth century, a movement that was a spontaneous if emotional and generally unacknowledged reaction to the changes in Europe. William Blake's lament for a return to an England without dark satanic mills was one of the few to articulate it, and in coupling evil with industry he created an association that has often been accepted subsequently without question. It was also a refusal to accept, perhaps, the implications of the changes that were rapidly enriching great segments of the population that had formerly been nothing but feudal serfs and penurious peasants. The mills might alter the countryside, but they also forced the lock the landed classes had held on Europe. The gentry, if not yet in retreat, had been served notice that change was afoot and was threatening to move at a rate beyond their control.

Heirs of Romance

There is from our point of view a touching innocence and naïveté about the romantic fascination with wild torrents of water, fearful chasms, and majestic mountain peaks. In literature we have yet to take the measure of man-made wonders; we are still hearing echoes of Coleridge's Kubla Khan, with its evocative imagery of "caverns measureless to man" and that "deep romantic cavern." Perhaps only science fiction obliquely celebrates the transformation that has taken place. It is ironic that at just about the same time man discovered the wonders of steam, he also discovered, with seemingly equal amazement, natural wonders that had been in existence for thousands of years.

On the productive side, this fascination with nature led to the great scientific studies of botany, zoology, and biology that resulted in Darwin's theory of evolution and the medical discoveries of Lister and Pasteur. Conversely, it encouraged sensibility at the expense of sense, and mysticism was preferred to reality. This, allied with a growing political awareness among the increasingly educated populace, found expression in men like Gandhi and Tolstoy, who denounced industrial societies and preached a return to an Eden that had never existed. (One does not have to go much beyond indoor plumbing and clean running water to realize what benefits the industrialized society has brought. Enteric fever, cholera, and typhus were epidemic in the West, and infant and maternal mortality were frighteningly high. Death in childbirth from puerperal fever, a result of insufficient hygiene, was commonplace.)

Responsibility for this declawed nature—benevolent, idyllic, and obedient to man's will—can be traced then to the eighteenth century . . .

The eighteenth century, confident that society could be organized on rational lines, saw no reason why its own surroundings should not be similarly arranged for its delight and repose. Like the environmental coalitions that lobby against mining and inaesthetic ventures that might affect their hiking, the wealthy landowners of those times kept their forests and streams as private preserves (poaching was still a serious though no longer a capital offense) and paid landscape architects like Capability Brown to remove and transplant trees for effect, to create hillocks where the vista was too flat, and to dig artificial lakes where nature had not thought to provide them. And to complete the illusion, instant ruins—follies—were erected. Nature untouched and nature made-over were intended for man's pleasure, inspiration, and control.

Responsibility for this declawed nature—benevolent, idyllic, and obedient to man's will—can be traced then to the eighteenth century with its great self-confidence in its own judgment, its romanticism, and its horror of coming too close to the great industries that so often provided the wealth that made all this luxurious independence possible. A well-meaning but essentially aristocratic response to and perception of nature led to its becoming the ultimate decorative adjunct to a way of life based on holding and keeping what had been acquired, rather than a life based on struggling to maintain some equilibrium or even to gain a little.

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These attitudes still prevail, and for the same reasons. But the heirs of this romantic legacy are not so protective when nature snarls in their faces. When actually confronted with nature as a force for death and destruction, these same romantics flee in terror into their urban citadels. Doors are locked, and through tightly closed windows they peer out timorously at the threatening undergrowth where raccoons may be waiting, or where rabid bats may be hanging ready to swoop down like some Transylvanian denizen and sink their deadly teeth into an unprotected neck. Panic became such that raccoons were being destroyed at the slightest sign of any aberrant behavior—for rabies can be positively identified only after the brain tissue is examined. So the congenitally friendly raccoon makes advances at his peril.

It all reaches a point of exquisite irony: Raccoons can be killed with the weapon of your choice, but please spare the white-tailed deer. Perhaps there does exist some rough scale of values whereby human beings are assigned to the top, and rats and poisonous spiders are placed somewhere near the bottom. But it would be extraordinarily difficult if not impossible to decide whether the lives of raccoons are worth more than those of deer. Both look appealing, both belong to that untamed nature whose diminishing size is so much lamented, and both seem present in large numbers. But to admit the need for the removal of animals on mere suspicion of guilt is to admit the necessity for intervention in nature. Sensible environmentalists concede this, but many elements in the environmental movement refuse to make such concessions: no roads in wilderness areas, no dams in regions susceptible to drought, no drilling for offshore oil, no priorities at all other than a static vision of the world that never was and never can be.

It all reaches a point of exquisite irony: Raccoons can be killed with the weapon of your choice, but please spare the white-tailed deer.

Woolly-Minded Ignorance

Perhaps some of this impulse towards romanticism is also part of a desperate need to believe in a state of innocence. Since the Renaissance it has been increasingly difficult to accept completely religious explanations for events and phenomena, but people need to believe in—or at least yearn for—a state of innocence: some beings, some places, some species uncorrupted, untouched, and uninfluenced by the complexities and contradictions of modern society. This impulse also affected the earlier romantics, but in this century—perhaps because of better communications or a greater sense of anomie—it seems more influential. Unchecked, it elevates to some mythical pantheon various Third World leaders, cults, liberation movements of doubtful independence, Black Panthers, Alaska, the oceans, and all flora and fauna.

Religions have become too diffuse, too secular to offer a repository for this and more spiritual needs. The churches offer not only prayers but also homilies on nuclear war, economics, and foreign policy. Hymnbooks are purged in the name of anything but God. It is understandable that anything so independently awesome as nature comes to be regarded as a benign presence, a vestige of unsullied virtue in a man-made morass. Lacking doctrinal confines, it is now possible to believe in anything, however unrealistic or woolly-minded. So passions are engendered by deer and fears by raccoons. It is a dreary measure of contemporary ignorance and spiritual poverty that good intentions have become the measure of our response to so formidable and complex a force.

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Nuclear Journalism

Lies, Damned Lies, and News Reports

Bernard Cohen

Polls of college students and members of the League of Women Voters in Oregon showed that both groups considered nuclear power their number-one "present risk of death,"[1] easily outranking motor vehicle accidents, which kill 50,000 Americans each year, cigarette smoking, which kills 150,000, and handguns, which kill 17,000. Average annual fatalities expected from nuclear power, according to most scientific estimates, are fewer than ten. Even the largest anti-nuclear activist organization, the Union of Concerned Scientists (UCS), which serves as scientific adviser to Ralph Nader and runs newspaper ads calling for a moratorium on nuclear power, anticipates only about 130 fatalities per year (based on their high estimates for the frequency and severity of reactor meltdown accidents).[2] In view of these fatality estimates, it seems fair to say that nuclear power does not merit its number-one risk rating; clearly, even the two well-educated and intellectual segments of the American public who were polled in Oregon have been badly misinformed.

The public gets nearly all its information through the media . . . so if the public is misinformed, journalism must be to blame.

A national poll by Opinion Research Corporation found that something like 80 percent of the American public believes that nuclear power is more harmful to health than coal burning.[3] There have been at least twenty scientific studies on this question[4]—studies sponsored by the National Academy of Sciences, the American Medical Association, the UCS, the United Kingdom Health and Safety Executive, the Norwegian Ministry of Oil and Energy, the state legislatures of Maryland and Michigan. Without exception they have reached the opposite conclusion, that coal burning is more harmful. Even Ralph Nader has privately conceded the point.[5]

I know of no up-to-date scientific study that reaches the opposite conclusion, that nuclear is *more* dangerous than coal, and my year-old offer, published in *Ascent* magazine, of a $50 reward for information leading to my discovery of such a study has never drawn a response. Nevertheless, 80 percent of the American public is convinced that nuclear power is more dangerous. As a result of that vast gulf of misinformation, utilities are cancelling nuclear power plants and building coal-fired plants instead. Every time this is done, many hundreds of citizens are condemned to death—all studies, including that by the UCS, agree on this—so the price of public misinformation is many thousands of deaths per year.

Recently, I did a study of how much our government is willing, or just barely unwilling, to spend to save a life in various contexts. It was a straightforward scientific project, published in a regular scientific journal,[6] and I identified many programs in cancer screening, medical care, and highway safety that could save thousands of lives each year for less than $50,000 per life saved. Yet we are spending sums like $50 million per life saved to protect the public against nuclear radiation. This discrepancy is surely highly immoral, costing us thousands of unnecessary deaths each year and wasting billions of dollars. Why is the same government that spends so much to protect us from radiation unwilling to spend even one thousandth as much to give us equivalent protection from disease and highway accidents? One can easily find out by asking the government decision makers: The reason is that in a democracy, the first priority of government is to respond to public concern. Since the public is concerned about radiation, government spends money to protect it from radiation; the public is much less concerned about highway accidents, so government is less willing to spend money in that area. Here again the problem is that the public is misinformed, and here again that misinformation is resulting in thousands of unnecessary deaths each year.

Who is to blame for this tragic situation? The public gets nearly all its information through the media—electronic and print—so if the public is misinformed, journalism must be to blame.

One of journalists' worst sins is overcoverage. Almost every incident involving radiation—a truck carrying radioactive material is involved in an accident, a radioactive source is temporarily lost, a container leaks radioactivity, a radiation shield is inadvertently left off—receives nationwide coverage. There have been perhaps a hundred such highly publicized incidents over the last thirty-five years, and all of them combined offer something less than a 1 percent chance for a single fatality.[7] All the while nearly 300 Americans are killed in other types of accidents each day, but only very rarely do these far more consequential events get wide coverage.

As an objective test of newspaper coverage, I did a study of the number of entries in the computerized *New*

BERNARD COHEN *teaches at the University of Pittsburgh.*

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Although their impact on the surrounding community is unmistakably visible, coal-fired plants—like this one in Pittsburgh, photographed in 1942—never inspired public concern to rival that about nuclear power plants.

York Times information bank on various types of accidents between 1974 and 1978 (before the Three Mile Island accident). For motor vehicle accidents, which kill 50,000 Americans each year, there was an average of 120 entries per year. For industrial accidents (13,000 fatalities a year) there were fifty entries per year; for asphyxiation accidents (4,500 deaths) there were twenty entries. Note that for these accidents there is a rough proportionality between the number of deaths and journalistic coverage. But for accidents involving radiation there were 200 entries per year even though there has not been a single fatality—known, suspected, or expected—from a radiation accident in more than fifteen years.

With all this attention to radiation hazards, is it any wonder that the public has derived the impression that radiation is one of the principal dangers it has to fear?

Another problem with journalistic coverage is the use of inflammatory language—"deadly radiation," "lethal radioactivity"—for a danger that hasn't killed anyone for many years. We never hear about "deadly automobiles," or "lethal electricity," even though 1,200 Americans suffer electrocution each year. Or how about "lethal water," referring to the 8,000 annual drownings, or "deadly falls," which kill 15,000 per year?

If journalists wanted to help the public understand the dangers of the radiation incidents they describe, the obvious way would be by comparisons with natural radiation, to which we are all exposed and which varies with geography, reaching 50 percent above the national average in the Rocky Mountain States. For example, the average person living near Three Mile Island received as much extra radiation from that accident as he would get from a one-week visit to Denver (nevertheless, the cancer rate in Colorado is far below the national average). And in the recent accident near Rochester, N.Y., not a single person was exposed to as much radiation as he gets each day from natural sources. Scientists always use these comparisons in explaining radiation dangers to laymen, but journalists hardly ever do. Much more frequently, they quote a utility spokesman or a government bureaucrat as saying that there is no danger to the public, with an obvious implication that his credibility is suspect.

The Scare Angle

The media frequently imply that radiation is poorly understood by science. Actually, nearly every involved scientist agrees that radiation is far better understood than air pollution, food additives, chemicals, and almost

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any other environmental agent introduced by technology. All national and international scientific commissions charged with estimating the health effects of radiation come up with similar results, and these results have not changed substantially for more than a decade. Yet journalists seize every opportunity to create the impression that they are changing. A paper by Mancuso and collaborators[8] claiming evidence for increased dangers from radiation received wide media publicity and drew twelve entries in the *New York Times* information bank. The twenty-plus critiques of the Mancuso work, like its rejection by all concerned scientific and governmental bodies, received essentially no coverage and warranted only one entry in the information bank. Another such paper, by Bross and collaborators,[9] was immediately followed in the scientific journal by a devastating critique by prestigious scientists from the National Cancer Institute; the Bross paper was given wide newspaper coverage, but the critique was completely ignored.

Journalists seldom consult "mainline" scientists on radiation health questions. They frequently quote one of the small handful of renegade scientists to promote the scare angle, but to present the other side, they nearly always use utility spokesmen or government bureaucrats. How can a journalist identify a mainline scientist? Easy. He or she publishes frequently in scientific journals, presents papers at scientific meetings, and is well respected by colleagues. Reporters need merely call a few randomly chosen, respected universities, ask for a professor of radiation health science, and request the professor's opinion on another scientist or on some aspect of the issue. The results would be 98 percent consistent in most cases. Though I've begged journalists to try this way of seeking the scientific consensus on nuclear power, they seem never to have tried it. Instead, they turn to the renegades and end up convincing the public that the scientific community is split (equally, they imply) on issues of radiation hazards, often suggesting that one side is dominated by government- or industry-supported scientists fearful of economic penalties if they do not follow the party line. Any enterprising journalist can determine for himself which picture is correct by choosing as his judges tenured university professors, who are largely free from economic pressures; indeed, many of them are physicians who could easily earn far more in other pursuits if money were important to them.

The Ultimate Disaster

One journalistic practice that leaves scientists frustrated is not recognizing the difference between scientific and political issues. The health impact of radiation, for example, is a strictly scientific issue, of a type science is well equipped to handle. The data are available to all in the scientific literature. Differences in interpretation are thrashed out in scientific journals and in scientific meetings, with every opportunity for participation by any scientist. Committees of prestigious scientists, familiar with all of this input, are assembled to make judgments for organizations like the National Academy of Sciences, the United Nations Scientific Committee, the International Commission on Radiological Protection, the National Council on Radiation Protection, and (in Great Britain) the National Radiological Protection Board. Though there are differences within and between these groups, even the extremes of these differences are essentially identical for most practical purposes.

Nevertheless, journalists more often than not make their own decisions on these scientific questions, even though they may have no familiarity with the scientific data and thought processes and may not even be capable of understanding them. Journalists are accustomed to deciding for themselves on political issues and do not appreciate the difference here. As a result, the public receives the judgments of journalists on these scientific issues rather than the decisions of the scientific community and the committees that represent it. For example, on the strictly scientific question, "Is radiation judged to be more dangerous now than ten years ago?" the scientific community has answered with a resounding no, but the media have given the public the impression that the answer is yes.

Three Mile Island was not a close call . . . because even if there had been a meltdown, there would have been no appreciable harm to the public.

Even more frustrating to scientists is journalistic propagation of antiscience. "Mr. Doe lies dying of cancer. 'It was due to the radioactive waste,' he said." There are many causes of cancer, and Mr. Doe's opinion on the source of his cancer has no standing as scientific evidence. One such story was featured in a Philadelphia newspaper.[10] My simple calculations show that there is less than one chance in 10,000,000 that the cancer was due to the radiation referred to. But readers who interpreted the story at face value would believe that radioactive waste caused the cancer. Many more examples of journalistic propagation of antiscience could easily be cited.

The greatest fear of nuclear energy among the public probably derives from the reactor meltdown accident, and here again journalists have grossly misinformed. They have convinced the public that a meltdown would be "the ultimate disaster"—how often we see those words—and most people envision thousands of bodies strewn about the landscape. Actually, the odds are that only one of a hundred meltdowns would produce *any* identifiable deaths,[11] and only in one of 5,000 meltdowns would there be as many as 1,000. The principal health impact of a reactor meltdown, even in the worst accident, would be a very slight increase in cancer rates, many times less than the normal difference between various sections of the country. When all the excess cancers among the millions of people exposed to hypothetical meltdowns are added up over the next eighty years, they would total an average of 400, according to most scientists, or 5,000, according to the UCS. Since air pollution

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from coal burning is estimated to kill 10,000 Americans each year, for nuclear power to be as dangerous as coal burning there would have to be a meltdown every two weeks (10,000 ÷ 400 = 25 a year), or every six months, according to UCS. How different this is from what the public has been led to believe.

Since there has never been a meltdown accident, journalists have conveyed much of their message through the Three Mile Island accident. According to all the studies, TMI was not a close call on disaster because even if there had been a meltdown, there would have been no appreciable harm to the public. But somehow journalists refuse to transmit this message. Can they really believe that this is not a matter of interest to the public? Or are they afraid of losing their big story? In any case, as a result of this journalistic omission, most people continue to believe that TMI was a near-miss disaster.

Citizens want no part of a burial ground in their area—that may become an unsolvable problem, created by journalism. . . .

Another favorite article is the so-called unsolved problem of disposal of high-level radioactive waste. What is an unsolved problem? Some of the waste of coal burning, known as air pollution, is killing 10,000 people in the United States per year—is that a solved problem? The solution planned for high-level waste is well known and very simple: HLW will be converted into rocks and put where natural rocks are, deep underground. This siting will block any radiation from reaching the surface, leaving only the possibility that radioactive waste would seep into water supplies. But there is no reason why an atom of waste, once converted into rock, will dissolve into water and enter the food chain any more readily than other rocks.[12] And in that case, these HLW rocks are easily shown to be thousands of times less damaging to human health than air pollution. Moreover, coal burning also releases into the ground indestructible carcinogens (such as cadmium and arsenic), which a similar analysis reveals will cause thousands of times more fatalities than HLW. Even within the nuclear industry there are milling wastes that are at least thirty times more harmful than HLW. Nevertheless, these comparisons are never cited, and the media continue to inflame but not illuminate the HLW issue. As a result, the public is convinced that HLW is one of the principal dangers it faces. Citizens want no part of a burial ground in their area—that may become an unsolvable problem, created by journalism—and the government, under pressure from public concern, is spending a billion dollars per life saved to protect future citizens from HLW, a sum that could save thousands of lives if spent in other ways.[13]

Unnecessary Deaths

But the worst journalistic sin in handling nuclear energy is failure to put risks into perspective. People can only understand risks by comparing them with other familiar risks. Let me do this for the risks of nuclear power, and to keep it noncontroversial, I will give the risk estimates of both mainline scientists and the UCS (in parentheses).[14] The risks to the average American of an all-nuclear electric power system would be equivalent to smoking one cigarette every ten years (ten weeks), an overweight person increasing his weight by 0.03 ounces (1.5 ounces), crossing a street one extra time every twenty weeks (three days), or increasing the national speed limit from 55 miles per hour to 55.02 m.p.h. (56).

I doubt whether 1 percent of our citizenry recognizes that the risks of nuclear power are as low as indicated by those comparisons. By failing to put them into perspective with familiar risks, journalists have not done their job in explaining the risks of nuclear power to the American public.

Journalists have grossly misinformed the American public about the dangers of radiation and of nuclear power with their highly unbalanced treatments and their incorrect or misleading interpretations of scientific information. Despite the consensus among scientists that coal burning is far more dangerous than nuclear energy, the journalists continue to make personal judgments on strictly scientific questions, ignoring information about natural radiation.

This misinformation is costing our nation thousands of unnecessary deaths and wasting billions of dollars each year. But the consequences may be even more far-reaching—they are denying this country a cheap and abundant source of energy.

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NIP in the Air

Fashionable Myths of National Industrial Policy

Richard B. McKenzie

The debate over a national industrial policy has been framed in much political rhetoric that colorfully charts the demise of the United States as an industrial power in the world economy. Harvard University Professor Robert Reich proclaims in the opening page of his widely read book, "Since the late 1960's America's economy has been slowly unraveling."[1] Not only is industry in serious decline, but "America's politics have been in chronic disarray."[2]

After attributing the country's economic decline to the inability or unwillingness of business managers to discard production techniques developed during and reserved for an earlier economic epoch of standardized mass production, Professor Reich deduces that businesses must be coaxed into becoming more "adaptive" and inclined to adopt what he calls flexible-system production: "America has a choice: It can adapt itself to the new economic realities [advancing technologies, accelerating capital mobility, and growing world competitiveness] by altering its organization, or it can fail to adapt and thereby continue its present decline . . . But failure to adapt will rend the social fabric irreparably. Adaptation is America's challenge. It is America's next frontier."[3]

Economists Barry Bluestone and Bennett Harrison document what they perceive to be "the Deindustrialization of America," arguing (as Professor Reich and others conclude) that the country's path to economic salvation lies not in less government, as the Reagan administration proposes, but in more government control of the economy, especially the investment sector.[4] Specifically, a growing chorus of advocates of a centralized and coordinated industrial policy stress that many of our economic ills can be resolved largely through instituting industrial democracy, an economic environment in which workers, managers, and government officials participate jointly (through discussions and voting power) at the firm level in investment and reinvestment decisions and at the national level in the allocation of the nation's capital stock across regions and industries.[5] In addition to beefing up federal expenditures on the nation's infrastructure and a wide range of social services—education, child care, health care—industrial policy proponents contend that the country must "rationalize" investment decisions through federal loans, interest subsidies, loan guarantees, and grants.

The purpose of these proposed new programs is to save firms from falling prey to international competitors, to spur the emergence of so-called sunrise industries, and generally to ease transition problems faced by workers and communities in a changing industrial climate. After all, the proponents contend, we need a social organization premised on "equity, security, and participation," not "greed and fear."[6] Not surprisingly, the type of industrial policy advocated depends often on the private interests and concerns of the advocate. "The kind of industrial policy I'm talking about," writes Edward Jefferson, chairman of E. I. du Pont de Nemours & Company, "should be highly selective, limited to asserting the national interest on behalf of our declining industries. That's no different from the concern we expressed for agriculture when it was in great difficulty in this country."[7] Professor Reich would settle simply for making firms the workers' agents for a wide range of social services and for making the federal government not larger, just "more open, more explicit, and more strategic."[8] Others in the industrial policy movement seek nothing short of central economic planning.[9]

After the rhetoric is stripped away, it becomes clear that many, if not most, industrial policy reformers seek a substantial realignment of public and private decision making in the country. These reforms are premised on the undeniable contention that several key industries—automobiles, steel, housing, and rubber—have recently experienced considerable economic difficulty. However, the reforms are also predicated upon a modern industrial mythology. And before serious reform can be considered, six key myths need to be dispelled.

MYTH 1

The manufacturing sector in the United States is on the wane, rapidly giving rise to a shift in employment opportunities from high-paying industrial jobs to low-paying service jobs.

Professor Lester Thurow of the Massachusetts Institute of Technology began his congressional testimony on industrial policy pressing the widely held view that "interest in industrial policy springs from a simple four-letter word—fear. American industry is being beaten up by its international competition, and business and labor are both afraid that American industry is going down for the count."[10] Similarly, the U.S. Trade Policy Council argues, "American jobs and markets are being systematically eroded, eaten away by a few of our trading partners who do not practice the same kind of free and fair trade that we do."[11] After calculating the jobs lost to private disinvestment during the 1970s, Bluestone and Harrison conclude, "What people seem to be feeling (and what

RICHARD B. MCKENZIE *teaches economics at Clemson University and is an adjunct scholar at The Heritage Foundation.*

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most analysts in universities and in the media seem to be studiously misunderstanding) is a deepening sense of *insecurity*, growing out of the collapse all around them of the traditional economic base of their communities. Their very jobs are being pulled out from under them. And instead of providing new employment opportunities, a higher standard of living, and enhanced security, the decisions of corporate managers are doing just the opposite."[12]

But have manufacturing employment and production, not to mention total employment and gross national product, been in serious decline in the United States? The graphs clearly dispel any lingering impression that the nation's total stock of jobs is regressing. Admittedly, the unemployment rate rose gradually during the 1960s and 1970s, reaching a peak of 10.8 percent in December 1982, the depth of the 1980–1983 recessionary period. The growth in the unemployment rate was due in part to the purposeful (but clumsy) anti-inflationary policy of the Federal Reserve from 1979 to 1982 and to an increase in the labor force participation rate, especially by women, which in turn was due partly to the rising tax burden and desire of many families to maintain their standard of living through two incomes. However, total nonagriculture employment rose by 30 million, or by almost 50 percent, between 1965 (60.6 million) and 1980 (90.8 million); by 29 percent between 1970 (70.6 million) and 1980; and by 19 percent between 1975 (76.8 million) and 1980. In the fifteen years prior to 1965, nonagriculture employment expanded by much less, by a little more than 35 percent.

Such a comparison of employment growth between the 1950–1965 and 1965–1980 periods fails to support the widely held view that the economy is, on balance, systematically destroying jobs. Yes, jobs are constantly being destroyed as new ones are being created in private markets. But the history of progress is necessarily a history of job destruction. Many of the jobs created by the expanding industries destroy the jobs of contracting industries as workers freely seek better opportunities.

Although there have been obvious ups and downs, the trend in manufacturing employment for the country as a whole remained largely flat from 1965 to 1980, moving between 18.5 million and 21 million workers and increasing at a scant compound rate of 0.4 percent over the 1965 to 1980 period. Proponents of industrial policy often stress the million or so manufacturing jobs lost between 1969 and 1975, failing to recognize the rather dramatic growth in manufacturing employment of approximately 3 million jobs between 1975 and 1979.

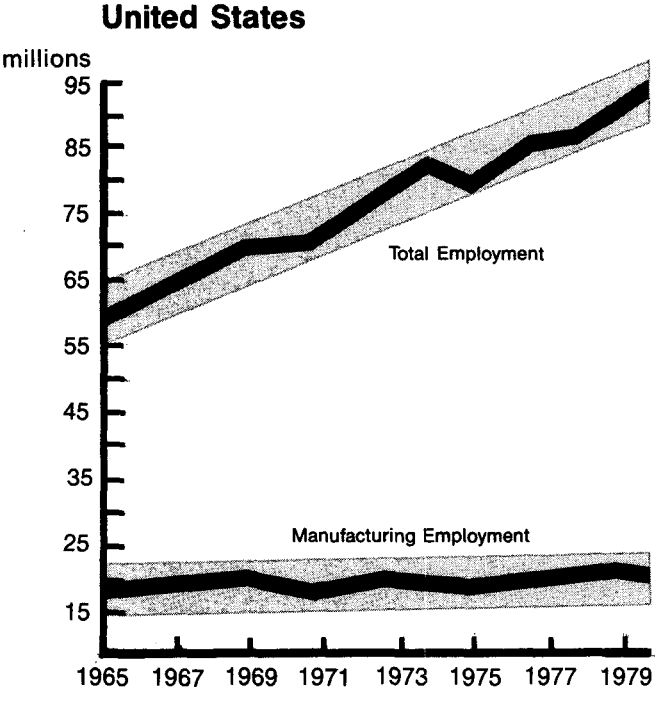
Those are the facts of employment. The clamor for an industrial policy, then, appears to boil down to four central concerns. First, the 1981–1982 recession took a serious toll on manufacturing employment, as well as total employment. Manufacturing employment fell by nearly 4 million jobs, or by 20 percent, between 1979 and December 1982. But that decline, due mainly to deliberate anti-inflationary policies pursued erratically by the Federal Reserve, was largely cyclical, not structural. Although there are ongoing structural shifts in employment in the economy, this is not one of them. Perhaps the advocates of a national industrial policy are too afflicted with tunnel vision to have noticed the revival of manufacturing employment that is accompanying the recovery.

Second, several key industries—specifically automobiles, steel, rubber, textiles, and related products—were in serious decline during the 1970s, especially the late 1970s. Even the decline in the basic industries was not as dramatic as has been supposed. Between 1970 and 1980, employment in the motor vehicle and equipment industries fell from 799,000 to 789,000, or by only 1.3 percent. Employment in primary metals industries during the same period fell by 118,000, which was only 9 percent of the 1970 labor force. (Employment in fabri-

Employment: On the Rise

Far from being in irreversible decline, employment in the manufacturing sector as a whole increased during the fifteen years following 1965. And in the short term, 1976 to 1980, the increase was faster. Although the Northeast and North Central regions experienced a long-term decline in manufacturing jobs, in recent years even these depressed sectors enjoyed an increase. All regions have seen total employment go up over the long haul.

Because the scales in the graphs differ, the trend lines have different slopes. Compound rates of growth were computed on the basis of predicted trend values for the beginning and ending years.



Growth Rate for Total Employment
1965–1980 = 2.47%
1976–1980 = 3.54%
Growth Rate for Manufacturing Employment
1965–1980 = 0.40%
1976–1980 = 2.36%

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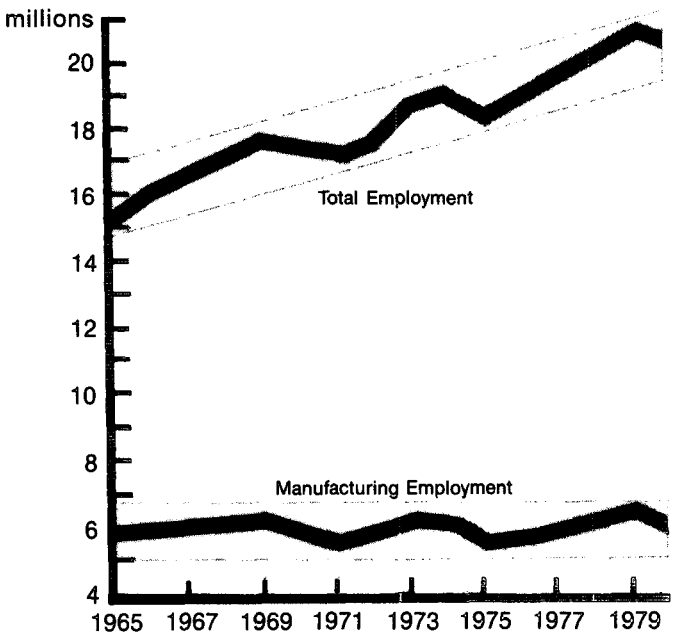
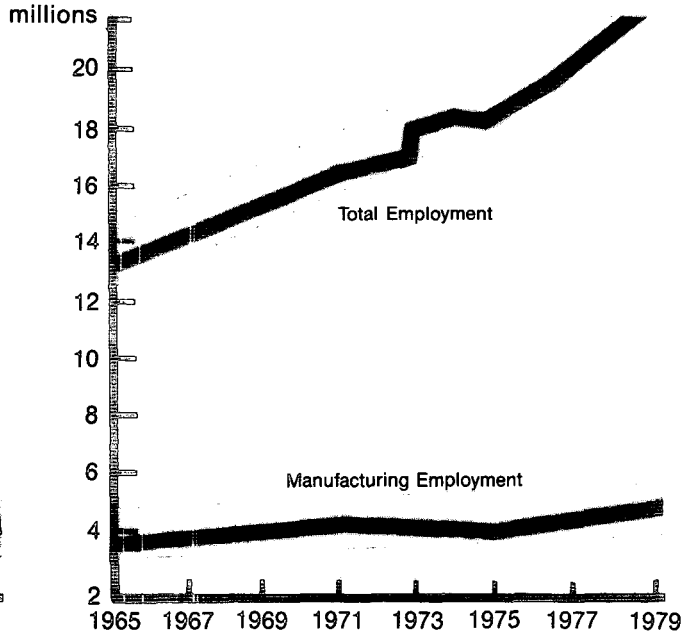
North Central



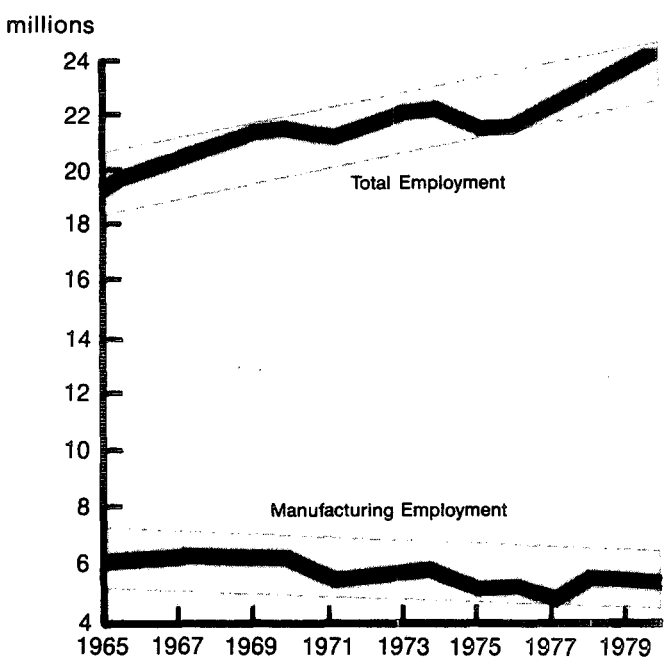
Growth Rate for Total Employment
1965–1980 = 1.94%
1976–1980 = 2.33%
Growth Rate for Manufacturing Employment
1965–1980 = −0.02%
1976–1980 = 0.64%

South



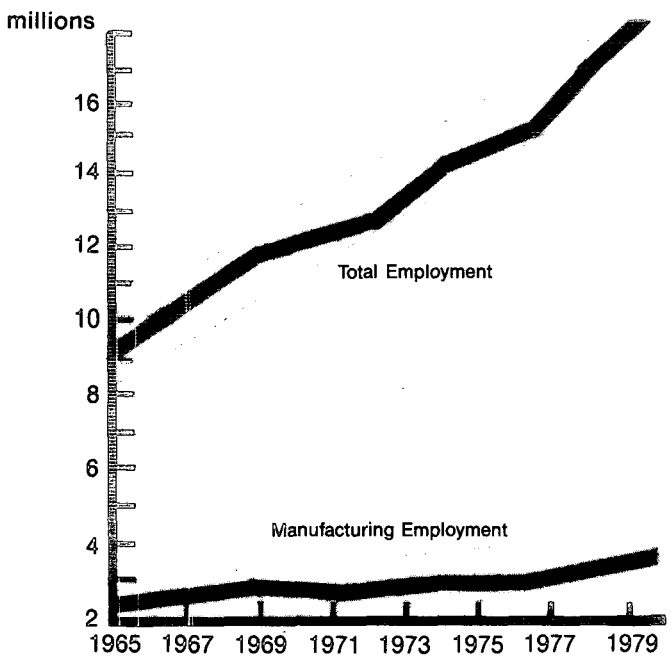
Growth Rate for Total Employment
1965–1980 = 3.70%
1976–1980 = 4.42%
Growth Rate for Manufacturing Employment
1965–1980 = 1.93%
1976–1980 = 2.60%

Northeast



Growth Rate for Total Employment
1965–1980 = 1.07%
1976–1980 = 2.33%
Growth Rate for Manufacturing Employment
1965–1980 = −1.34%
1976–1980 = 2.41%

West



Growth Rate for Total Employment
1965–1980 = 3.98%
1976–1980 = 5.40%
Growth Rate for Manufacturing Employment
1965–1980 = 1.99%
1976–1980 = 5.54%

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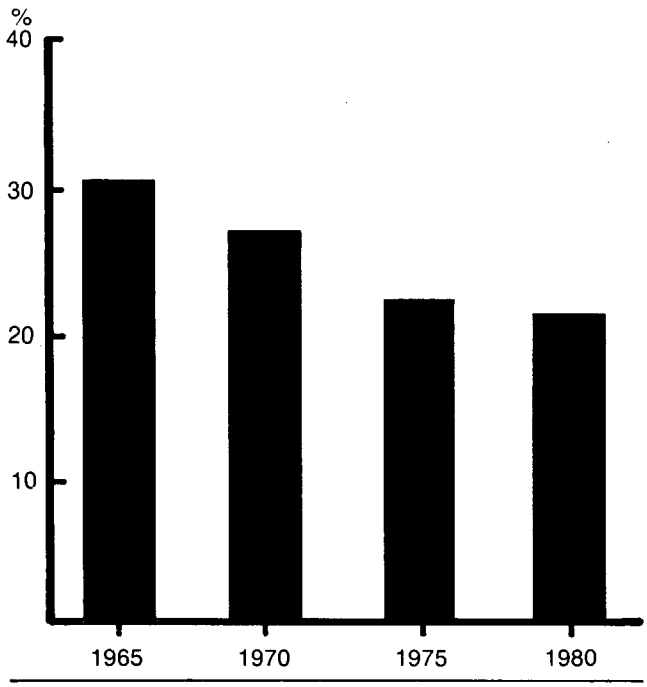
cated metal products actually rose slightly during the 1970s.) Again, these industries have recently suffered heavy employment losses, which were at least partially a cyclical problem. Moreover, this was a period of expansion for other industries, including computers, biogenetics, robotics, and other high-tech products.

Third, between 1965 and 1980, manufacturing employment tended to shift among regions. As a consequence, the flatness in manufacturing employment for the entire country is not observed in all Census Bureau divisions. There was a general *decline* in employment in the Northeast and a general *expansion* in the West and South. The trend for the North Central division was flat. The contraction in Northeast manufacturing employment over the fifteen-year period, however, hides a strong turnaround in manufacturing employment between 1976 and 1980. In those four years New England experienced a compound rate of annual manufacturing employment expansion of 3.46 percent, earning the nickname "Sunbelt of the North." North Central manufacturing employment, meanwhile, expanded at a compound rate of less than 1 percent. The growth in manufacturing employment in the West and South was substantially higher than in the Northeast and the North Central. The important point is that from 1965 to 1980, total employment in all regions—indeed, all states—expanded, although irregularly and slowly at times.

Manufacturing Jobs: Down . . . Relatively

As a percentage of total nonfarming jobs, manufacturing employment has indeed fallen. But this decline has been more than offset by the growth of jobs in the government and service sectors.



Fourth, manufacturing employment has declined in a relative sense (see the graph below). In 1965 manufacturing employment accounted for approximately 30 percent of all nonagriculture jobs. By 1980 the share of the country's jobs in manufacturing was down to 22 percent, still on par with the share of jobs in manufacturing in 1947. The growth of jobs from 1965 to 1980 was most apparent in the government and service sectors. Contrary to what is often suggested—that the shift from manufacturing to service jobs means workers are becoming janitors and fast-food waiters—these shifts in the composition of the labor force have economic explanations:

- Many of the service jobs have been taken by women, teen-agers, and elderly people who seek part-time employment demanding few skills. Such jobs satisfy a need.
- The service sector includes more than janitorial and waitering services. Of the 9 million service jobs created during the 1970s, which caused a 41 percent increase in service employment between 1970 and 1980, 1 million (representing a 68 percent increase) were in business services, and another 6.7 million (a 54 percent increase) were in professional services, a category that covers health, education, welfare, and religious employment. Employment in finance, insurance, and real estate expanded from 3.9 million in 1970 to 6 million in 1980 (a 52 percent expansion). Personal services actually contracted by 10 percent during the decade.
- A significant portion of the shift occurred not because manufacturing plants were replaced by fast-food parlors in which workers had to accept employment, but because many manufacturers could not meet the rising wages of their competitors in the service (and expanding manufacturing) industries and could not, therefore, hold their employees. In short, the rise in service employment was often the result of free choices of U.S. workers seeking improvement in their welfare. The idea that firms are always responsible for jobs destroyed is a gross distortion of the way employment markets work.
- The contraction of employment in many key manufacturing industries in the 1970s was partly a response to productivity improvements that resulted in a steady rise in the real value of manufactured goods over the past two decades, from $171.8 billion in 1960 to $351.2 billion in 1980 (see the graph at the top of the next page). What seems to be bothering advocates of an industrial policy is that the increases in output were not always accompanied by increases in wages. Indeed, average gross weekly wages stayed more or less the same during most of the 1970s and have declined every year since 1979, facts that can be explained by the growing competitiveness of many industries. Just as manufacturing workers have benefited in the past from productivity increases in agriculture and computers, other workers through their purchases are benefiting from productivity improvements in key manufacturing industries.
- Some of the contraction in manufacturing employment and wages experienced during the late 1970s was due to workers' uncompetitive wage demands. Steelworkers, for example, were able to negotiate wage increases even when their productivity was declining. In other words, not all job losses can be attributed to poor

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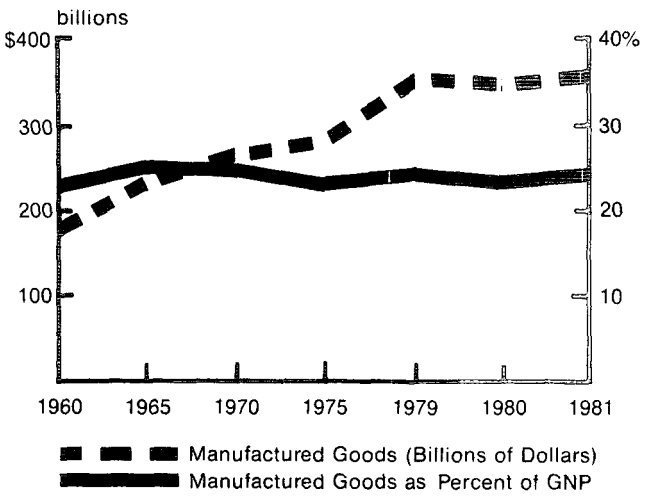
Manufacturing: Steady Component of the Economy

As a percentage of gross national product, the value of manufactured goods has held nearly constant.



management decisions (which also, of course, play a role in labor force losses), and many of the job losses were caused by those who risked unemployment by raising wages to uncompetitive levels.

Lester Thurow, among others, blames imports for the stagnating or declining positions of a number of basic industries. But consider the assessment of Professors Joseph Badaracco and David Yoffie, who write, "Fortunately for America and unfortunately for proponents of industrial policy, a crisis of catastrophic proportions is not yet upon us. The deterioration in the United States' international position is real, but it is not as widespread or calamitous as many believe."[13]

Professors Badaracco and Yoffie question the view that the country's failures in international markets are culturally inspired—that is, reflective of U.S. executives' inability or unwillingness to adapt. Although the United States had an overall trade deficit in 1981, it also had trade surpluses in capital goods, agriculture, and industrial supplies. The U.S. surplus in high-technology goods, for example, is growing, as is the nation's share of trade in manufactured goods since 1978 (see the graphs at the right). This rise in world market share has occurred despite lagging productivity increases and decreases in the international value of the dollar, caused in part by relatively high real interest rates in the United States, which have attracted foreign investment. And that, in turn, has fortified domestic demand for capital goods.

Finally, it is a gross distortion of the facts and benefits of international trade for proponents of industrial policies to develop their case by pointing to the U.S. trade deficits with Japan and other important trading partners without acknowledging our trade surpluses with other countries (specifically, European countries) or recognizing that Japan has trade deficits with other countries that use the dollars obtained from Japan to finance their deficits with the United States. U.S. trade deficits with Japan are financed, in part, by U.S. trade surpluses with other countries that have trade deficits with Japan. Moreover, a contraction in the U.S. trade deficit with Japan will lead to a contraction of the U.S. trade surplus with other countries. Our problems cannot be tackled simply by restricting our trade deficit with a particular country.

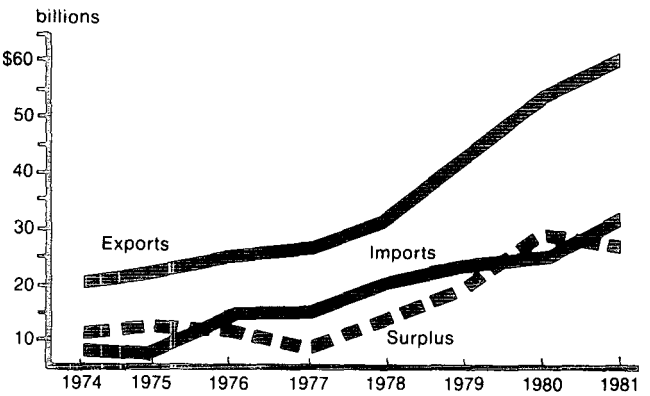
MYTH 2 (a Corollary to Myth 1)

The country's employment base is rapidly changing. High-paying manufacturing jobs are being replaced by

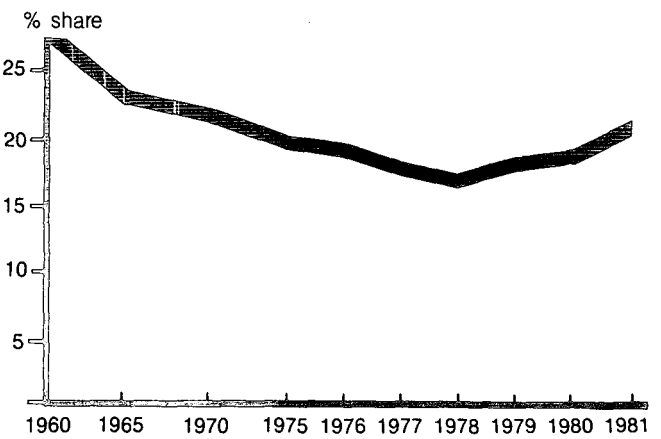
Imports: Not to Blame

Despite the overall trade deficit in 1981, the United States has hardly been routed in the international market. High-technology goods chalked up a surplus in the balance of payments, for example. And although the U.S. share of world trade in manufactured goods declined in the first half of the 1970s, it is now growing and was higher in 1981 than in 1975.

U.S. High-Technology Balance of Trade



U.S. Share of World Exports of Manufactures



Source: Joseph Badaracco and David Yoffie, "Why a U.S. Industrial Policy Will Fail," Manhattan Report (1983), pp. 5, 6.

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low-paying service jobs. The rapidity of these changes is so great that dramatic new government initiatives are needed to ease the pain of adjustment.

Most Democratic candidates for president have premised their industrial policy proposals on what they perceive are substantial changes in the composition of jobs. Senator Gary Hart echoes a familiar theme, "Over the last 30 years, the U.S. economy has been undergoing a transformation as significant as the Industrial Revolution of the 19th century."[14] Congressman John LaFalce in opening hearings on industrial policy before the House Subcommittee on Economic Stabilization, which he chairs, noted, "We are witnessing an unprecedented period of change in our economic life, with an increasingly internationalized economy, declining basic industry, high unemployment, and staggering rates of change in knowledge and technology."[15]

The myth that the country is rapidly being transformed from an economy emphasizing housing, automobiles, and steel to computers and telecommunications is believed by two-thirds of the respondents to a national survey. Columnist Robert Samuelson has noted, "These perceptions are to history as bourbon is to water."[16] Many of the facts presented above in discussing the myth of industrial decay should disabuse people of their misperceptions. How could we be going through a period of industrial change of staggering proportions when, as advocates of industrial policy point out, we are experiencing, by historical standards, relatively low and at times nonexistent increases in productivity? Granted, changes have been observed, but the evidence suggests that if the private sector has been able to advance and cope with much more rapid rates of technological change in the past, it should certainly be able to handle the current changes.

The persistence of the myth can be explained by the attention the media give to developments in computer technology (which many people find mysterious), the closing of plants in key industries, and the recent relatively high unemployment rates. Furthermore, statistics on projected job growth can be used artfully to suit the purposes of the industrial policy advocate. If, as Mr. Samuelson observes, the interest of the "policy peddler" (his term) is to stress the rapid emergence of high-tech jobs, he can focus on the percentage growth projected by the Labor Department for several key high-tech industries in the 1979–1990 period: paralegal personnel (109 percent), data-processing mechanics (92 percent), computer operators (72 percent), and computer analysts (68 percent).

Alternatively, if the industrial policy advocate wants to convince the audience that the nation is being transformed into a country of relatively low skilled workers, he can emphasize the absolute number of jobs expected to emerge over the 1980s in selected job categories: secretaries (700,000), nurses' aides and orderlies (508,000), janitors (501,000), and sales clerks (479,000), most of whom receive below-average wages. These analyses, however, are gross distortions because they do not consider the number of workers already in the various job categories. As Mr. Samuelson writes, "If there are already a lot of janitors [and there are], a big job increase may mean that the janitorial work force is just keeping pace with the economy's expansion. In fact, this is precisely what is expected to happen. In 1980, there were 2.8 million janitors and 2.9 million sales clerks. Projected growth for these occupations parallels total growth."[17]

The Labor Department[18] does not forecast dramatic changes in the composition of the labor force between now and 1990 (see the table below). Education, agriculture, and private household services are expected to be the only major sectors of the economy that will experience declines in employment over the period, and those sectors are not of special concern to industrial policy advocates.[19] Although declines in particular job categories and industries are expected, total manufacturing employment will continue to grow very slowly, even with the more conservative assumptions about overall growth in the economy.[20] The percentage of the nation's labor force in manufacturing will continue to decline as other sectors expand more rapidly, but although the precise projection may be off the mark, manufacturing employment growth is expected. Manufacturing jobs, on bal-

The Future Work Force:

Projections for 1990 show a labor force not much different from today's. Three sectors are expected to employ fewer workers, the rest, more—but manufacturing jobs will by no means disappear.

	Average Annual Change 1979–1990	Actual Distribution 1979	Projected Distribution 1990
Total Employment	**1.4%**	**100.0%**	**100.0%**
General Government	**.6**	**15.9**	**14.8**
Federal	.3	4.1	3.6
Military	.0	2.0	1.7
Civilian	.7	2.0	1.9
State and Local	.7	11.8	11.2
Education	−.5	6.4	5.3
Noneducation	1.8	5.4	5.9
Total Private	**1.5**	**84.1**	**85.2**
Agriculture	−2.3	2.7	1.9
Nonagriculture	1.6	81.4	83.2
Mining	1.5	.7	.8
Construction	.5	5.8	5.7
Manufacturing	.8	20.6	19.2
Durable Goods	1.0	12.5	11.9
Nondurable Goods	.3	8.1	7.3
Transportation, Communications, Public Utilities	1.1	5.3	5.1
Wholesale and Retail Trade	1.7	21.5	22.2
Finance, Insurance, Real Estate	2.8	5.3	5.7
Other Services	2.7	19.4	21.8
Government Enterprise	1.8	1.4	1.4
Private Households	−.1	1.7	1.3

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ance, are not expected to be wiped out, as many industrial policy advocates imply.

Industries are not expected to grow at the same rates; employment in a number of sectors is expected to decline. The table below lists the fastest-growing and the most rapidly declining industries. Employment in most industries is expected to change at average annual rates of 3.1 percent to −1.5 percent. Such rates do not support the view that the economy will be dramatically restructured by 1990. Admittedly, the impact of relatively small annual changes can mount over the course of a decade. However, the industries that will be expanding rapidly in the 1980s were relatively small at the start of the decade; relatively large growth in an industry like computers will, as a consequence, do little to change the composition of the nation's employment by 1990.

MYTH 3

The federal government saved Chrysler from bankruptcy.

The federal government's aid to the Chrysler Corporation in 1979 is touted as the quintessential example of what industrial policy, strategically aimed at helping firms out of financial crisis, can accomplish. Former Vice President Walter Mondale, now a Democratic contender for the presidency, exhorted union leaders,

> Look at Chrysler. I believe in a free market. Most decisions have to be made there. But there are times when things are so important that that's why we have a government of the United States. If we had let Chrysler go down the drain, we would have lost a major competitor in the auto industry. We would have lost a major source of industrial productivity in our country. The federal government would have lost billions of dollars through the cost of unemployment and the collapse of the industry and the tax losses and all that went with it. . . . Many people, including the man who is now President, turned his back on Chrysler and said, "No help."
>
> I'm proud of the fact that I worked for the auto workers and the auto industry to drive a quality recommendation through our administration to support that Chrysler loan and to help pass it in Congress. Three years later, the Chrysler Corporation is one of the success stories in America. It's starting to make progress. It's paying the federal government back. We're making money off the loan. The communities with plants are stabilizing. People have jobs. We've got more competition in the auto industry. What's wrong with using the government when it serves?[21]

If one judges the bailout in terms of whether Chrysler still exists, then the bailout worked. But Chrysler might have survived even if bankruptcy proceedings had begun in 1979. Indeed, attorney James Hickle declares that for all practical purposes "the Chrysler Corporation has gone bankrupt. Or, more accurately, in the past three years Chrysler has renegotiated its debt and restructured its organization in a way that greatly resembles a company that has gone through bankruptcy."[22]

Mr. Hickel points out that the bailout law required Chrysler's creditors to make "concessions," a provision that was pressed by then Secretary of the Treasury G. William Miller and enabled Chrysler to pay off more than $600 million in loans at 30 cents on the dollar and to convert $700 million in loans into a special class of preferred stock, a class of stock that according to Mr. Hickel is "relatively worthless in the financial markets, because the shares presently earn no dividends and are unredeemable for several years. Granted, these preferred stockholders were able to trade their shares of preferred for common in early 1983, however, it is fair to believe that the market value of the newly acquired common stock will be less than the value of the original debt, plus lost interest."[23] Had the company been allowed to declare bankruptcy, the changes in Chrysler's balance sheet might have been little different, except that stockholders and creditors would probably have taken a greater financial beating. But that is the risk of investing in private enterprise, and stockholders and lenders are compensated through dividends and interest rates.

Did the bailout save jobs? That is questionable for several reasons. First, the company could have started

No Dramatic Changes

Employment in even the fastest-growing and the most rapidly declining industries will not change by more than a few percentage points per year—hardly a wholesale restructuring.

Fastest-Growing Industries, 1979–90	Average Annual Rate of Job Growth
Other Medical Services	4.6%
Typewriters and Other Office Equipment	4.5
Computers and Peripheral Equipment	4.2
Coal Mining	4.1
Hospitals	3.8
Crude Petroleum and Natural Gas	3.6
Doctors' and Dentists' Services	3.4
Local Government Passenger Transit	3.3
Other State and Local Government Enterprises	3.2
Automobile Repair	3.1

Most Rapidly Declining Industries, 1979–90	Average Annual Rate of Job Decline
Dairy and Poultry Products	−3.3%
Alcoholic Beverages	−3.1
Leather Tanning and Industrial Leather	−2.7
Logging	−2.4
Synthetic Fibers	−2.1
Other Agricultural Products	−1.8
Railroad Transportation	−1.7
Wooden Containers	−1.6
Dairy Products (Processed)	−1.6
Bakery Products	−1.5

Source: U.S. Department of Labor, Bureau of Labor Statistics, Economic Projections to 1990, *Bulletin 2121 (Washington: U.S. Government Printing Office, March 1982), p. 32.*

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anew after bankruptcy proceedings, as many other companies do, and it could be employing as many workers as the "New Chrysler Corporation" currently does. Second, other investors (including any number of other companies) could have purchased Chrysler's assets at the postbankruptcy market price, and production could have continued, perhaps on a more modest but profitable scale. Third, other car companies could have emerged or expanded, providing jobs in the process. Fourth, lendable funds were drawn away from other firms and other investment purposes. Some Chrysler jobs were saved, but jobs in other firms were just as surely destroyed. And finally, since Chrysler has cut its white-collar work force by 20,000 and its production work force by 42,600, there is ample reason for Senator William Proxmire and others to wonder whether the bailout actually saved any jobs at all.[24] Certainly, if the government treated all firms like Chrysler, as industrial policy advocates suggest it should, Chrysler's workers would find the benefits of the bailout more questionable. The employees, stockholders, suppliers, and customers of each bailed-out company would have to carry the heavy tax burden of salvaging tens of thousands of other companies.

In addition, Mr. Hickel questions whether Chrysler is actually recovering. First, half of Chrysler's reported $170 million in profit comes from large losses that were carried forward to 1983 and beyond, reducing its tax liability. Second, the company cut its real expenditures on research and development by 18 percent, cutbacks that could hamper future profitability. Given its cutbacks in purchases of plant and equipment, Chrysler may be forsaking long-term profitability for short-run profits, something that has not gone unrecognized by industry analysts. Chrysler managed to defer $220 million in pension fund contributions. And it negotiated $600 million in wage concessions for 1982 and 1983; some of that was given back under the threat of a strike in 1982, and more givebacks are expected to be negotiated in early 1984.[25] The company can also thank "voluntary restrictions" accepted on the importation of Japanese cars, which at this writing the Japanese are refusing to continue. Finally, any success Chrysler has in staying out of the red may be due more to the special entrepreneurial skills of chairman Lee Iaccoca than to the federal bailout.

In short, there is every reason to believe that Mr. Hickel was right when he wrote, "In reality, the primary difference between the actual bankruptcy that Chrysler faced in 1979 and the quasi-bankruptcy that Chrysler has gone through in the past three years, is that under this quasi-bankruptcy the federal government has accepted responsibility for guaranteeing over $1 billion in Chrysler loans. But if Chrysler's creditors and employees have already suffered through the debt negotiation and layoffs that typify reorganizations under the bankruptcy laws, who is benefiting from those loan guarantees? Primarily Chrysler's stockholders."[26]

MYTH 4

The postwar Japanese economic miracle has been to a substantial degree the work of the Japanese government.

Political scientist Chalmers Johnson contends that "central to understanding Japan's economic 'miracle'—the unprecedented economic growth—is the role of the Ministry of International Trade and Industry (MITI)."[27] Professor Lester Thurow concludes, "While the foreign success [in outcompeting the United States in international trade] is traceable to many factors (low currency values, more engineers, longer time horizons), it remains true that each of these countries that are now beating up on American industry has some mechanism for strategic coordination of their industries. In Japan the banking system is heavily influenced by the decisions of government, MITI tries to develop a consensus for its industrial policies, and 'administrative guidance' is a way of life."[28] Professor Robert Reich adds (referring to the industrial policies of several countries, including Japan),

> As relatively late industrializers dependent on international trade continental Europe and Japan relied to a far greater extent than did America or Britain on national economic strategies, spearheaded by their governments. In sharp contrast to the American pattern, these governments were the driving force behind economic development—the vehicles through which middle-class business interests overcame the inertia of an older economic order based on landed wealth . . . They were, in short, directly and openly intervening to propel their economies toward growth. In several of these countries—especially Japan, West Germany, and France—these public efforts have successfully accelerated economic adjustment.[29]

Although government policies certainly played a role in the economic development of Japan, claims of Japan's industrial policy successes are grossly exaggerated, given the limited role the Japanese government played in the economy, relative to the United States and other countries. During the 1950s, 1960s, and 1970s, only 10 to 15 percent of outstanding loans were financed through government institutions, and government-sponsored capital formation represented less than 10 percent of the country's gross national expenditures.[30] However, government involvement in capital formation expanded gradually over the last three decades, and that policy accompanied a slowdown in Japan's economic growth.

Granted, the Japanese government was responsible for 28 percent of research and development projects in 1980. But the government's share of R&D expenditures in the United States was 51 percent, and in West Germany, 44 percent. Furthermore, only 1.5 percentage points of the Japanese government's 28 percent R&D share went into private industrial R&D, whereas 25 percentage points of the United States' 51 percent share and 12.5 percentage points of West Germany's 44 percent share went for private industrial R&D.[31]

Japan's Fiscal Investment and Loan Program (FILP), which is independent of the government's budget and designed to invest in government and private enterprises, provides considerable government aid to selected industries that may permit Japan to "beat up" on U.S. industries. FILP's budget for 1980 was set at 18 trillion yen, or more than $80 billion, which is spread among fifty sepa-

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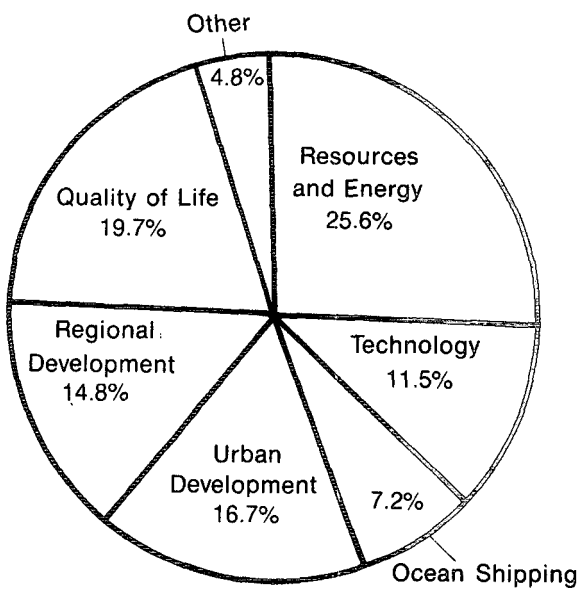
Japanese Industrial Policy: Little Impact

Japan's industrial prowess cannot be attributed to public investment. Manufacturers, in fact, have received a small piece of the pie.

New Loans by the Japan Development Bank, 1976–1980



Source: Katsuro Sakoh, "The Japanese Industrial Policy Myth," Backgrounder (Washington: The Heritage Foundation, July 1983), p. 15; originally reported in Jimmy W. Wheeler, Merit E. Janow, and Thomas Pepper, Japanese Industrial Development Policies in the 1980s (Hudson Institute, 1982).

rate entities and local governments.[32] Typically, the spread is 20 percent to local governments, 30 percent to public investment, and 50 percent to something called "policy implementation financing."[33]

Japan's policy-implementation funds seem directly related to industrial planning, although the local government and public investment expenditures can also have positive effects on infrastructure and, thereby, economic growth. The United States, however, has also been heavily involved in such expenditures at all levels of government. Since the inception of Japan's policy implementation program, approximately 75 to 80 percent of the funds (which, again, accounted for approximately 50 percent of the FILP budget) were lent to small businesses, homeowners, farmers, and "others," which included the Japan National Railway.[34] As Philip Trezise, senior fellow at the Brookings Institution, has observed, these borrowers "may provide many worthy services to Japanese society, but it is difficult to credit any of them with being closely connected with promising growth sectors, unless housing is so considered."[35]

The remaining 20 to 25 percent of the policy-implementation funds went mainly to the Japan Development Bank and the Export-Import Bank of Japan. However, the impact of the JDB on industrial development is questionable. After looking over the distribution of loans to manufacturing and nonmanufacturing sectors of the Japanese economy (see the figure at the left), one is inclined to agree with Japanese economist Katsuro Sakoh, who has written, "There is no evidence that manufacturing industries, in general or any particular manufacturing sector, have been targeted by JDB. In fact, the share of loans that manufacturing industries have received from JDB is negligible. Industries such as iron and steel, often cited as examples of successful government assistance efforts in the early post-war period, received less than 1 percent of the loans of JDB from 1951 to 1972. This amounts to about half that received by the hotel business during the same period."[36]

Since 1972, JDB lending has shifted to urban and regional development, energy, and environment. Between 1976 and 1980, almost 72 percent of JDB funds went for nonmanufacturing purposes, principally electricity, gas, and water supplies (approximately 35 percent of JDB loans) and transport and communications (about 19 percent). Such statistics have caused Mr. Trezise to observe, "Effectively, the bulk of the post-1972 lending program was for infrastructure and improvements in the quality of Japanese life . . . If all the JDB infrastructure lending had been left to the private capital market, the economy probably would not have developed differently."[37] The targeted industries—those receiving a relatively large share of JDB funds—include agriculture, coal mining, petroleum refining and petrochemicals, shipbuilding, and aluminum, industries that tend to have considerable political influence but not necessarily great potential for growth. In developing its industrial plan in the early 1960s, the Japanese government attempted to encourage cartels among its automobile producers and to discourage Honda from going into the automobile business on the grounds that it did not have the potential to compete on the world market.[38]

Why, then, has Japan experienced so much higher growth than other countries? There are several plausible explanations.

- Taxes have taken a relatively small share of national income. In 1980 the share of Japan's national income going to taxes was 23 percent; in the United States it was 28 percent; in West Germany and France, 32 percent; in the United Kingdom, 41 percent.
- The tax system in Japan has tended to favor saving (which leads to investment and growth) and has been partially responsible for the 20 percent saving rate among Japanese workers.
- For most of the postwar period Japan has maintained a policy of balancing its budget. The growing deficits during the 1970s may partially explain the decrease in the growth rate from the 4 to 5 percent range to the 2 to 3 percent range.
- The Japanese government has had to spend little on defense.
- Wages in many Japanese industries have remained competitive. Wages in the automobile industry, for example, are approximately half what they are in the

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United States. An important "secret" to the ability of Japanese firms to offer their workers lifetime employment lies in competitive wages (a policy option always available to American workers). Also, the stability of employment (which tends to lower wages) in many major Japanese industries reflects the fact that 30 to 40 percent of a worker's wages is paid in the form of year-end bonuses. Such bonuses vary with the companies' profitability, which means that wages—not employment—rise and fall with the ups and downs of the business cycle.[39]

- Finally, as University of Maryland Professor Mancur Olson has argued, World War II may have inadvertently contributed to economic growth in Japan by breaking up and destroying the hold that interest groups had on government policies, reducing competition and enhancing their own profits at the expense of the general public. In other words, forced competitiveness has spurred economic growth, since fewer resources have been devoted to seeking monopoly profits through government protection.[40] Mr. Sakoh has concluded, "Ironically . . . the government contribution [to economic growth and prosperity in Japan] is based not on how much it *did* for the economy, but on how much it *restrained* itself from doing."[41]

MYTH 5

Our industrial development problems can be solved through protectionist measures and "Buy American" programs.

A prominent textile executive and vocal supporter of free markets has echoed a familiar theme in the reinvigorated protectionist movement in this country: "Every time you import a product, you're exporting a job." Following the lead of others, he suggests that to solve our nation's unemployment problem, we should all "Buy American." The recently published philosophical manifestos of these born-again protectionists who have wrapped themselves in the mantle of industrial policy reveal how easy it is to overlook or ignore basic principles of international trade.[42]

When applied to a specific industry, such as textiles or automobiles, claims of enhanced employment opportunities from protection represent special pleading, a demand that government tariffs promote the interests of the few at the expense of the many. When applied to the entire range of domestically produced goods, such arguments are absurd and lose much of their appeal even to textile and automobile workers. Nevertheless, employment claims inspired President Reagan's tenfold increase in the tariff on motorcycles in early 1983, and they undergird the emerging theory of "managed capitalism," the philosophical perspective that supports the industrial policies of Messrs. Reich, Thurow, Hart, and Bluestone.

Clearly, when domestic textile companies are unable to meet the prices charged by foreign firms, employment in American textile firms suffers. If textiles are produced abroad, textile workers are employed abroad, not in the North and South Carolina mills. Though indisputable, that fact does not mean that the total number of jobs in this country is reduced by textile imports. Trade—international or domestic—is always in two directions. No individual in this country will continue to sell the product of his labor and investment without expecting something in return. Similarly, no country is going to continue to sell us the products of its industry without expecting goods and services in return.

The Japanese and Koreans are willing to export to us (and allow us to import from them) for one simple reason: It is their most effective means of laying claim to the products of U.S. industries—and U.S. workers. They may sell us their textiles for dollars, but the exchange dealers seek dollars for the purpose of using them to buy American goods. The end result is that over time, imports of textiles (and thousands of other goods) give rise to (or are caused by) exports of American goods. Granted, imports of textiles may "destroy" jobs in the domestic textile industry, as proponents of protectionism argue. But because of the bidirectional nature of international trade, those imports also "create" jobs in other export sectors of the U.S. economy, a fact that those who seek protection from market competition fail to acknowledge. Many of those other jobs will be in the very states in which textile jobs, in particular, are the object of protection. If the domestic textile industry is protected, the economy's stock of jobs will not rise. Protection may lead to more textile jobs, but it will also result in fewer exports and fewer jobs in the export industries (including sectors of the textile industry that cater to foreign markets).

[Foreigners] export to us [because] it is their most effective means of laying claim to the products of U.S. industries—and U.S. workers.

Nonetheless, for some very good reasons, tariffs have considerable political appeal. First, in hard times it is all too tempting to blame our troubles on others, especially foreigners who are not in a good position to defend themselves. Second, the benefits of any given tariff proposal are typically concentrated on a relatively small number of people, who because of the significant income at stake, tend to be politically active in promoting protection. The costs of each of the tariffs, on the other hand, are spread thinly over the entire consuming population in the form of higher prices and restricted supplies.

Third, the jobs that are "destroyed" by imports are highly visible. The "textile trade deficit" can be computed with ease, and the plants and workers idled because of that deficit can be readily identified—all of which can be reported vividly with pictures of closed plants and interviews with unemployed workers. The jobs "destroyed" by the protection are largely invisible to the media, which cannot disentangle job losses due to protection from job losses due to other economic forces in other countries.

Finally, protectionists have an arsenal of spurious ar-

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guments that have worked, unfortunately, to their advantage many times in the past:

- *We cannot hope to compete with subsidized foreign industries.* If foreign industries are receiving extensive subsidies, as is claimed, then those companies and their workers must also be bearing a substantial tax burden, which should be reflected in the costs of their production. To develop an industrial policy that truly benefits Americans, the U.S. government should perhaps treat the subsidies much as "favorable climate," a basis for a comparative cost advantage, and exploit it. By importing subsidized products, the U.S. economy can tap into the tax base of other countries.
- *Unrestricted trade will wipe out entire domestic industries.* In fact, only the least efficient marginal firms will likely fall to international competition. In most major product groups, open international trade is likely to lead to greater specialization, not complete specialization.

The honest slogan of the textile protectionist . . . should probably be "Buy American, Save Our Textile Jobs, and Impose the Costs on Others."

- *We need our industries for national defense.* This appealing argument will be unconvincing until it is shown that the industries that would prosper in the absence of protection will contribute less to our national defense than the protected industries. Proponents of protectionism as part of an industrial policy must place their national defense claims in the context of comparative analysis.
- *We cannot compete with the low wages in foreign countries.* This fallacy is considered in detail below.

In evaluating the growing array of proposals for protection, consumers should recall one simple point: Such proposals come from people who have very narrow economic interests. They do not wish to be contained by the forces of competition, and they often cloak their private interests in noble claims about broader national interests—which can only rarely be validated. The honest slogan of the textile protectionist, for example, should probably be "Buy American, Save Our Textile Jobs, and Impose the Costs on Others."

MYTH 6

Low wages in foreign countries explain the inability of U.S. industries to compete with imports.

This protectionist position, a theme from Robert Reich's widely read book, was no doubt fortified recently when Wolfgang Hager, visiting professor at Georgetown University's School of Foreign Service, wrote:

> Without trade barriers, rich countries are bound to suck in cheap imports from low-wage countries, destroying the domestic industries that used to make those products. There will never be enough "high tech" jobs to employ those who lose more traditional jobs. Therefore, unrestricted trade would eventually destroy the economies of all high-wage, developed countries.[43]

Cheap labor is the presumed culprit for the eroding market shares of American firms in automobiles, steel, textiles, aircraft, television, robotics, and a host of other industries. Imposing tariffs, quotas, and quality controls on imports is the presumed solution that would reestablish "fair international trade" and give back to American companies their American markets.

Industrial executives ask prophetically, how can we hope to compete with foreigners who pay their workers 17 cents an hour? The answer is that we do compete. In many industrial and agricultural areas we pay high wages and export goods to cheap-labor countries, including Korea, Hong Kong, Japan, and Italy. This feat is accomplished principally where American wages reflect relatively high levels of productivity.

Although low wages may characterize the production of almost all imports, what is important is the comparative cost of production of various goods in the United States and other countries, and wages are only one factor in countries' production costs. And by comparative costs we mean not the absolute level of wages, but what must be forgone to produce some good for export.

Why? To be worthwhile, international trade must ultimately be bilateral. Moreover, wages are typically low across industries in low-wage countries. Again, no country will long persist in using its resources to produce goods for export if it gets nothing in return.

If a country like Japan exports low-wage products, it must—just to make trade bilateral and worthwhile—import high-wage products from abroad. Otherwise, trade would be nothing but a drain on the economy of the low-wage country. If low wages account for imports, we must wonder how the United States could ever export anything, since our wages across the industrial board are generally higher than elsewhere in the world.

Of course, protection advocates like Professor Hager argue that unless U.S. industry is protected, all U.S. markets will be at the mercy of foreign low-wage producers—an absurd conclusion, since a foreign country's ultimate motivation for exporting goods is its demand for imports, including imports from the United States. To suggest, as does Chalmers Johnson, that "the United States is in danger of ending the twentieth century as the leading producer of ICBMs and soybeans, while the Japanese monopolize everything else"[44] is tantamount to saying the Japanese are so stupid that they will, through exports, drain their country of its resources and get nothing in return just to achieve monopolies—a maddening contradiction of intents.

Those Japanese workers are paid in yen, and the products they produce are priced in yen. In deciding whether to import Japanese textiles, American buyers can observe only the prices of Japanese goods in yen; they probably do not care (and probably do not know) what Japanese workers are paid. They are concerned only with whether

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textiles can be bought at a lower cost from companies in Japan or the United States. Differences in wages and labor productivity can explain the comparative costs of products in the two countries.

To illustrate the problem facing the importer, suppose a yard of cloth costs 1 yen in Japan and $4 in the United States. That information alone, regardless of how much Japanese and U.S. workers are paid in real terms, offers little help in deciding whether textiles should be imported into or exported from the United States, since one product cannot provide the basis for bilateral trade. But say a bushel of soybeans costs 1 yen in Japan and $2 in the United States. The American importer can now reason that a yard of cloth in Japan can be made at the same yen cost as a bushel of soybeans (1 yen each), but the yard of cloth is relatively dearer in the United States ($4 versus $2).

What is important is the comparative costs of production of cloth and soybeans in the two countries. To produce a yard of cloth, Japan will have to give up a bushel of soybeans (each costs 1 yen). To produce a yard of cloth, the United States will have to give up two bushels of soybeans (one yard of cloth at $4 is worth two bushels of soybeans at $2 each). Therefore, even though wages may be low in both Japanese industries, it makes sense for cloth to be produced where the fewer soybeans are given up—in Japan. That, then, is where production tends to occur.

By the same argument, it makes sense to produce soybeans where fewer yards of cloth are forgone—in the United States. Only half a yard of cloth must be given up for every bushel of soybeans produced here, whereas one yard of cloth must be given up for every bushel produced in Japan. Indeed, the demand for yen by Americans intent on buying textiles from Japan will push up the dollar price of yen in the international money market until American soybeans become cheaper than Japanese soybeans to the Japanese.

A fundamental principle of trade, often overlooked by protectionists in their zeal to convince Congress that without protection the U.S. economy will decay into total ruin, becomes clear: Regardless of the absolute level of wages in the two countries, if the Japanese have a comparative cost advantage in the production of, say, textiles, then the United States must have a comparative cost advantage in something else, like soybeans. Again, trade must be bidirectional.

An aside: If soybeans cost $8 a bushel in the United States (and if wages remained the same in Japan), trade would be reversed. Fewer soybeans would have to be given up in Japan (one bushel) than in the United States (half a bushel), and we would export cloth and import soybeans.

One can blame low wages in Japan for the imports of cloth in our original example. But blame could just as well be attributed to the soybean industry in the United States, which is able to push the dollar price of its beans to a sufficiently low level that it, not the textile industry, is the beneficiary of the export market to Japan. The textile industry is having a difficult time competing with Japanese imports because it must compete for labor with other industries, like soybeans, that have been able to raise their productivity relative to the textile industry. As a consequence of this competitive process, the comparative cost advantage in textiles goes to the Japanese, and the textile industry is thrown up against foreign competition in its own domestic markets.

These simple but subtle analyses of international trade continue to perplex many a statesman who has been swayed by demands for protection. However, they must be understood by the voters if they are not going to be hoodwinked into greater protection, which spells higher prices and lower real incomes for Americans.

Between now and the 1984 election, industrial policy issues will attract considerable media attention. The arguments offered in support of many industrial policy schemes, however, often confuse fact and fiction. Just possibly, everyone can agree with industrial policy advocates that the United States needs a "coordinated" industrial policy, one that means government policies foster growth in jobs and incomes. But we also need to separate fact from the fiction in the debate so that citizens can understand whether a "coordinated industrial policy" should mean more or less government intervention in the economy.

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    "Another misguided concern often expressed by advocates of an industrial policy is the increasing proportion of our G.N.P. devoted to imports. Though the percent of foreign goods and services sold in the United States has increased substantially over the last 20 years, United States exports have increased during the same period. Merchandise exports as a share of G.N.P. rose to 6.8 percent last year [1982] from 4.3 percent in 1970, despite the recession and a rising dollar, which increases the cost of exports. Moreover, the increase in American imports relative to G.N.P. is not out of line with other major industrial nations. While American imports of merchandise rose to 9.3 percent of G.N.P. in 1981, from 4.3 percent in 1970, Japan saw an increase to 12.7 percent from 9.2 percent during the same period" [Bruce Barlett, "False Images and Political Bias," *New York Times* (June 12, 1983), p. 2F].

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Whatever Happened to the Nixon Doctrine?

Samuel T. Cohen

Any way one chooses to look at it, the Vietnam War was a fiasco for the United States. For those Americans who had taken great patriotic pride in the nation's will and ability to *win* wars, the fiasco was unprecedented. However one defines winning a war, at a minimum the enemy must cease and desist in its efforts to achieve its objectives. A tougher-minded definition of victory in the classical sense would demand that the enemy surrender and his territory be occupied. None of this, of course, the United States accomplished in the Vietnam War. Since the communists fully achieved their objectives and we achieved not one, the war ended in a victory for them and a defeat for us—a humiliating defeat at that.

Considering the great social trauma in the United States that the war caused while it was going on and for some time thereafter, the Vietnam War was a disaster. It was a wretched experience almost from the beginning, one that still rests uneasily on the national conscience.

Whereas it cannot be said that the Vietnam War produced an economic disaster, it did have a substantially detrimental effect on the U.S. economy. In 1983 constant dollars, the war cost more than $300 billion to fight and more than $100 billion in veterans' benefits. The money that went down the Vietnam drain would be deeply appreciated today by all the factions that compete for the national budget, including the U.S. military.

There were a few military thinkers (including this author) who believed that nuclear explosives and nonexplosive radioactive devices could have played an important role in Vietnam. This, however, was not the opinion of the U.S. government, whose policies made it very plain that anything nuclear was ruled out. The most official substantiation of this rejection was issued by the Defense Department in a March 1967 news release:

> There is no military requirement for the use of nuclear weapons or devices in the current situation in Vietnam. The Joint Chiefs of Staff have no proposal under consideration for the use of nuclear weapons or devices in Vietnam and they have made no proposal to the Secretary of Defense for the use of nuclear weapons or devices in Vietnam. Nor is any other responsible official of the Department of Defense considering the use of any nuclear weapon or device in Vietnam.

Nuclear explosives and nonexplosive radioactive devices could have played an important role in Vietnam. This was not the opinion of the U.S. government.

By the time Richard Nixon became president, it was evident that the only way to go in Vietnam was out. The Nixon administration almost immediately commenced searching for an honorable way out of the war that would give the South Vietnamese a "decent interval," with continued U.S. military assistance but not U.S. bodies, in which to fend for themselves. Later in his first presidential year, Mr. Nixon expanded his specific policies for the Vietnam War to include the rest of Asia and articulated the U.S. position in the event that allies and other nations considered vital for American security were attacked. The new policies emerged formally in the summer of 1969 in Guam when the president outlined the elements of what later became known as the Nixon Doctrine. The basic tenets of this doctrine were threefold.

- First, the United States would continue to hold to its treaty commitments. As Mr. Nixon was to explain in his 1971 foreign policy report to the Congress: "To desert those who have come to depend on us would cause disruption and invite aggression."[1] On the other hand, the implementation of the new doctrine had to be considered realistically: "It is in everyone's interest, however, including those with whom we have ties, to view undertakings as a dynamic process. Maintaining the integrity of commitments requires relating their tangible expression, such as troop deployments or financial contributions, to changing conditions." In other words, honor would be upheld in U.S. commitments, as tempered by the need to maintain flexibility. One could have wondered at the time, however, whether it might have been more a policy of flexibility, as tempered by the need to act

SAMUEL T. COHEN *developed the neutron warhead concept in 1958 and has since worked for the Rand Corporation and been a consultant to the Pentagon and the Air Force. His current employer is R&D Associates in California.*

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honorably—a need that many nations feel even though they do not necessarily act as they feel. (The United States managed to suppress such need in breaking the defense treaty with Taiwan in order to establish formal relations with Communist China.)

- Second, as President Nixon explained in his 1971 foreign policy report, the United States will "provide a shield if a nuclear power threatens the freedom of a nation allied with us or of a nation whose survival we consider vital to our security. Nuclear power is the element of security that our friends either cannot provide or could provide only with great and disruptive efforts. Hence, we bear special obligations toward non-nuclear countries." One should keep in mind that this avowal was made more than a decade back. At that time the United States might have held some vestige of strategic nuclear superiority and perhaps could have mobilized more theater and tactical nuclear weapons than the Soviets in certain areas of Asian conflict. Under these conditions, the deterrent value of the U.S. nuclear weapons panoply may have had some measure of credence.
- Third, it was made very plain that the "lessons" of the Vietnam War were being seriously heeded. In his 1971 report to the Congress, the president declared that the future military role of the United States in Asia would not again involve dispatching large numbers of American troops to foreign shores to fight conventional wars: "In cases involving other [nonnuclear] types of aggression we shall furnish military and economic assistance when requested in accordance with our treaty commitments. But we shall look to the nation directly threatened to assume the primary responsibility for providing the manpower for its defense." He made it plain that America no longer would play the role of the world's policeman: "We will continue to provide elements of military strength and economic resources appropriate to our size and our interests. But it is no longer natural or possible in this age to argue that security or development around the globe is primarily America's concern. The defense and progress of other countries must be first their responsibility and second, a regional responsibility. Without the foundations of self-help and regional help, American help will not succeed." For sure, according to Mr. Nixon, there would be no more U.S. land wars in Asia.

How has the Nixon Doctrine, possibly the showpiece of the Nixon foreign policy, fared since its inception? How well has it been upheld? If not well, should it have been upheld? If it should not have been upheld, what should the United States now be doing about its "vital interests" in Asia?

[Nixon] made it plain that America no longer would play the world's policeman: "Without... self-help . . . American help will not succeed."

The first and most disastrous failure of the Nixon Doctrine came with the first attempt to implement it—in Vietnam. The United States pulled its troops out, although after providing some of the most massive aerial bombardments (against North Vietnam) in history to help the South Vietnamese forces, only to witness a full-scale invasion from the North and a collapse of U.S. resolve to provide military assistance to the South. The doctrine failed to survive the great American disillusionment with a conventional war that threatened to go on forever. What seemed to make eminent sense at the time of its formulation, in effect, was rejected by the American people and the Congress when it was put to the test several years later.

The Nixon Doctrine was never implemented in South Korea. In explaining his new doctrine, Nixon had said: "In South Korea fewer U.S. troops are required, but Korean forces must receive more modern equipment." Nothing of substance in this direction, however, was accomplished during his or Gerald Ford's administration, and when Jimmy Carter, shortly upon becoming president, sought to effect large withdrawals of American troops from Korea, Congress refused to go along. Most of the troops remain—making another U.S. ground war in Asia distinctly possible.

Directly after the fall of South Vietnam, when the credibility of U.S. commitments to allies was at low ebb, President Ford was questioned on the U.S. resolve to use nuclear weapons to stop a North Korean attack on the South. His response was very positive: "I am saying we have the forces and they will be used in our national interests." But did he really mean it, or was this the same nuclear rhetoric the U.S. has felt necessary to utter over the last twenty years to reassure nervous friends and allies, all the while holding to policies that in the main foreclosed the use of nuclear weapons? On this point, witness the following remarks made by U.S. Defense secretaries during the last decade:

> At the same time, I must stress that our tactical nuclear systems do not now and are most unlikely in the future to constitute a serious substitute for a stalwart non-nuclear defense. In fact, we must recognize in our planning that the decision to initiate the use of nuclear weapons—however small, clean, and precisely used they might be—would be the most agonizing that could face any national leader.[2]
>
> James R. Schlesinger
> *FY 1975 Defense Posture Report*

> We could adopt the position that any serious attempt to erode our interests by military means would be met by the tactical use of nuclear weapons. In fact, the U.S. took precisely that position at one time in the past. . . . However

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tempting this view, and the lower defense budgets that it might promise, it is an illusion.[3]

Donald H. Rumsfeld
FY 1977 Defense Posture Report

There is no evidence that [tactical] nuclear firepower can substitute for the other elements of a conventional capability. Nor is it at all clear that anything approximating a traditional military campaign could be fought with nuclear weapons.[4]

Harold Brown
FY 1979 Defense Posture Report

This administration does not regard nuclear strength as a substitute for conventional strength. . . . At present, we spend some 85 percent of our total defense budget on non-nuclear forces, and that accurately reflects our priorities. Non-nuclear capabilities would in fact receive even higher priority in our budget had it not been for the fact that this administration must cope with the severe inadequacies it inherited in the realm of strategic and other nuclear weapons.[5]

Caspar Weinberger
FY 1983 Defense Posture Report

In view of these statements, most probably the Nixon Doctrine never really meant what it said about pledging nuclear support to Asian allies and friends. The U.S. inability (or downright refusal, as the case may be) thus far to achieve realistic war-fighting capabilities for its theater and tactical nuclear weapons lends ample weight to this probability. This (nuclear) doctrinal tenet may have been little more than diplomatic window dressing at the time and apparently still is. Which brings us to the current administration's views on fighting land wars in Asia. Consider Defense Secretary Caspar Weinberger's remarks on the subject:

We must frankly recognize the possibility of a similar military operation [a Soviet invasion of Europe] against other countries where the western interest would be vital. In the middle of any night, I may be awakened to be told that the Soviet Union is actually in the process of invading a country that we must defend, but where we have neither bases nor troops. . . . This is why I put so much stress on improving our ability to mobilize our forces and to mobilize quickly. We may not again have the preparation time we had to get ready for World War II, which was barely enough then.

Conventional wars could come in all sizes; if we value our freedom, we must be able to defend ourselves in wars of any size and shape and in any region where we have vital interests.

That means developing urgently a better ability to respond to crises far from our shores, and to stay there as long as necessary.[6]

Any relationship between these statements (from a speech Secretary Weinberger gave in May 1981 on national security policies) and the Nixon Doctrine seems nonexistent. Far more than a willingness to fight another Vietnam War, there is in these remarks a requirement of a capability to fight a conventional war of the level and duration of World War II. In fact, it was reported in July 1981 that Secretary Weinberger had requested that the military services determine what it would take for U.S. industry to gear up to be capable of absorbing half the gross national product in the event of a large, drawn-out conventional war.[7]

The Persian Problem

However vital various Asian areas may be to U.S. security interests, there is nearly unanimous agreement that the Persian Gulf is by far the most vital. In fact, it was due mainly to a series of critical events in the Gulf region—the Russian occupation of Afghanistan, the overthrow of the Shah, the Iraq-Iran war—that the major impetus for the current U.S. buildup of general-purpose forces (meaning mainly conventional forces) arose. Not only has the Gulf situation produced a major redeployment of U.S. naval forces to that area, but also the underlying planning factors for the Rapid Deployment Force are based on conventional conflict in this region. In the Persian Gulf the United States now can expect the greatest possibility of a large-scale land war in Asia, and this time it would involve direct conflict with the Soviets, not their surrogates.

In our present plans and efforts to defend the Persian Gulf against Soviet military aggression, there are three crucial questions: Can we contain a Soviet attack in this area and, as pledged by the administration, "win" the war? Can we realize our primary objective for conducting military operations in this area—that is, to preserve the flow of Gulf oil? And just how vital are our vital interests in this area?

An Unbridgeable Gulf

On the subject of American defense of the Persian Gulf with conventional forces against a Soviet conventional attack, every sober military appraisal indicates that it cannot be done at present. The Soviets can bring to bear more forces, with more firepower, more quickly than can the United States. If we elected to wage a conventional war in that area, we would lose the war. If we elected to use nuclear weapons to rectify the expected military adversities, we would be faced with a Soviet theater nuclear superiority that would in all probability easily defeat our efforts. We also would face the risk of escalation to general nuclear war.

Even were the United States to achieve a credible conventional capability for fighting in Southwest Asia, this still would not solve the real military problem. Were the Soviets to engage in direct military conflict with the United States on a major scale, which would be the case in a Persian Gulf confrontation, the evidence at hand indicates that they would use nuclear weapons, which they long have regarded as a revolutionary force in modern

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warfare and around which they have developed and trained their ground forces.[8]

Soviet ground forces are structured, trained, and exercised around the use of nuclear weapons. In contrast to the United States, the Soviets have continually modernized their theater and tactical nuclear weapons and would have superior nuclear capabilities in a Persian Gulf conflict. To expect that they would refrain from exploiting this advantage, were the United States ever to equal or surpass them in conventional capabilities, and accept military defeat (the Reagan administration has stated its determination to win conventional wars), flies in the face of reality and common sense.[9]

Of course, there is always the possibility that U.S. policy underlying the Rapid Deployment Force might be changed to provide a nuclear war doctrine and a modernized nuclear arsenal for coping with the Soviet capabilities. Even if a nuclear strategy were adopted, however, the Soviets would confront this posture with one of their own, since they hold the very large advantage of proximity to the battleground and a sanctuary for nuclear weapons, like the SS-20s based on Soviet territory. If the United States attacked such weapons, the Soviets would almost certainly respond against U.S. territory. Considering the U.S. vulnerability to nuclear attack, national demise would be at hand. Surely the United States would not want to risk its very survival to preserve the flow of Gulf oil.

Catch 22

There is a certain absurdity in an American determination to go to war, if necessary, to prevent the Soviets from shutting off the Gulf oil. If the Soviets try to halt Gulf oil flow, it would not be necessary to invade the area physically. All they would have to do is to send a Backfire bomber to bomb one tanker—and deliberately miss. If this were to happen, tanker insurance rates most likely would escalate out of sight, and that would be that. But even if the shipowners were to take their chances, aided by such air defense measures as the AWACS we are providing to the Saudis, the Soviets could then deny access to oil facilities through the use of theater missiles, armed with chemical warheads (so as not to damage or destroy the facilities), against which no defense exists. What would the United States do then? Go to war with the Soviet Union with no real hope of keeping the oil flowing? That would be irrational.

There is nothing the United States can do to deal with Soviet aggression in [the Gulf]. The U.S. vital interest in this area is to stay out.

As to how vital the U.S. national interest in keeping the Persian Gulf region free of Soviet domination may be, this has to be weighed against the U.S. supreme national interest—its survival, in the event military intervention were to lead to nuclear war. It is unfortunate that the time has come when there is nothing the United States credibly can do to deal with Soviet aggression in this region, or any other Asian region contiguous with the U.S.S.R. But this has become a fact of life in the nuclear age. The U.S. vital interest in this area, or any other contiguous area in Asia, is to stay out.

Despite the almost total lack of rational underpinnings for fighting a land war in Asia against the U.S.S.R., the United States continues in this direction as if two things never had existed: Soviet nuclear weapons and the Nixon Doctrine. Those in the Nixon administration who formulated the Nixon Doctrine were as guilty as subsequent administrations (including the present one) in ignoring the realities of Soviet nuclear weapons. Why are those who formulated the doctrine, which stemmed mainly from a bitter lesson learned from fighting a land war in Asia, now so strangely silent, along with practically everyone else, over so sound a policy? Or was it only a temporary political expedient in the first place, to be cast aside as the United States, allegedly in support of its vital interests, continued with its containment policies, to include fighting land wars with the Soviet Union in Asia?

Fortress America

To best support its vital interests, the United States should cease its quest to defend against Soviet military aggression in Asia, something the Soviets themselves may not have in mind. (We might pay heed to the great frustrations the Soviets have experienced since their invasion of Afghanistan when we assume that they plan to invade and occupy other Asian nations.) The enormous funding earmarked for this unrealistic and dangerous objective should be redirected to what should have been the paramount U.S. objective all along: its own self-defense and survival in the nuclear age.

It should be recalled that while the Nixon administration was developing the Nixon Doctrine, it also was developing plans for a comprehensive defense of the United States against ballistic missile attack. To explain the necessity for such defense, Mr. Nixon stated: "No president with the responsibility for the lives and security of the Americal people could fail to provide this protection." Proposed in the strategic policy framework of Mutual Assured Destruction, Mr. Nixon's ABM program (Safeguard) encountered great domestic opposition and barely gained initial congressional approval. Three years later, with the signing of the ABM treaty, the program was dead.

Crumbling Walls

Also around the time the Nixon Doctrine was formulated, plans had been made effectively to phase out U.S. continental air defense. In the years that followed, U.S. air defense capabilities effectively disap-

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peared, despite the apparent build-up of Soviet bomber forces having intercontinental capabilities.

Civil defense against nuclear attack was viewed by the Nixon administration essentially with indifference. No comprehensive program to provide realistic civil defense was proposed, a situation that persists.

The United States remains exposed to nuclear attack. Furthermore, our continuing policy of containment of Soviet military aggression hardly maximizes deterrence of nuclear attack, for it serves to increase the probability of actual military conflict with the U.S.S.R., leading to nuclear war.

These considerations suggest that the priorities the United States now assigns to supporting its vital interests may well be the obverse of what they should be. To provide most realistically for its national security, the United States should return to the Nixon Doctrine and redirect the military budget to its own defense and survival in the nuclear age.

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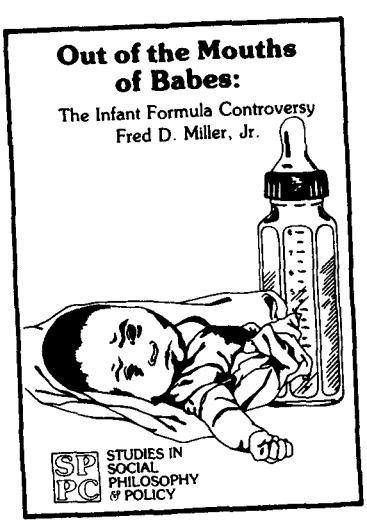

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Tales from the Public Sector

Red Tape all'Italiana

Antonio Martino

It has been observed that Italians tend to be rather secretive about their salaries. Whereas Americans are at times inclined to talk, often with pride, about their annual pay, Italians positively refrain from mentioning it. Banca d'Italia, Italy's central bank, recently announced two openings for blue-collar positions within its organization. One of the potential applicants wanted to know before applying what salary the job entailed. Since he was not able to get the information from the local branch of Banca d'Italia, he wrote to the central administrative office in Rome. The reply he got was that the pay was revealed only to those who already worked there.

The usually well-informed intellectuals maintain that the explanation for the loquacity of Americans and the secretiveness of Italians on the issue of their pay goes back to cultural factors: the Protestant ethic on the one hand, and Catholic culture on the other. Maybe so. I venture to suggest, however, that as far as Italian civil servants are concerned, another, simpler explanation might apply: They do not know what their pay actually is. Let me illustrate by drawing from my own experience.

I have always been puzzled by the amount of my salary as a university professor (in Italy, university professors are, I regret to say, state employees). It has never been a nice, round figure like, let us say, $15,000 a year, or $1,250 a month. On the contrary, the amount has always bordered on the use of decimals, and it has tended to fluctuate mysteriously. For example, in February of this year my paycheck amounted to 1,484,965 lire (at the present exchange rate the last two digits—65 lire—are worth slightly more than 4.6 cents). I decided that it was incompatible with my faith in the rational pursuit of self-interest not to try to understand why my salary was what it was. I therefore asked a friend, the director of our university institute and an expert on the details of life in this great peninsular republic, to enlighten me.

"You are lucky," he said. "I have just been able to understand the issue myself. A group of theoretical mathematicians have just published a paper in a learned statistical journal dealing with the determination of university professors' salaries. It's quite simple, really." He took a sheet of paper full of figures from his wallet and turned on his pocket calculator.

New Math

That did not catch me unprepared: I had brought my calculator along and did not refrain from sporting it.

"You start from an annual salary of 24,125,220 lire," he said.

"Why?"

"Because that's the annual pay of a civil servant at the top of his career, and university professors have been equated to top civil servants."

"But that's not what I make," I observed.

"I know," he replied patiently. "You have to multiply that figure by 0.486."

"Why?"

"Because a professor at the beginning of his career is paid 48.6 percent of that salary. I know," he added, preventing me from interrupting, "I know you are not at the beginning. We must find your seniority coefficient. When were you appointed full professor?"

"In 1976."

He worked on his calculator for a few minutes and then announced, beaming: "Your seniority coefficient is 1.32. We have to multiply the previous result by 1.32."

The amount was still different from my paycheck.

"Now," he said, "we must multiply this figure by 1.122. I am not sure why, but I believe that it was a once-and-for-all increase of 12.2 percent they gave us a few years ago. The resulting figure must then be divided by 12 to get the monthly salary."

"It's still not right."

"Sure," he said acidly. "We have to multiply the outcome by 0.095. You know—the 9.5 percent fixed withholding."

At that point I gave up, so he continued undisturbed.

"Your basic salary is 1,309,609 lire. You are married and have two children, so we must add the 58,391 lire family allowance. Finally, there is the *contigenza* [a lump sum, equal for everybody, given as an indemnity against inflation]: 555,116 lire. Your monthly salary is 1,923,116," he concluded.

"No, it's not."

"That's because we must subtract the amount withheld: 436,151 lire."

"That takes us to 1,486,965 lire," I said. "Why is my salary 1,484,965 lire?"

"Do you have it credited to your bank?"

"Yes," I admitted.

Then you must subtract 2,000 lire for the bank's commission, and you get to the figure you actually received. Quite simple," he added triumphantly.

Well, it is not as simple as that. In March my salary dropped to 1,334,965 lire (150,000 lire less than the previous month), but I have not made any further investigation. I just do not want to know. So please, never ask me how much I make as a university professor. I could not tell you.

ANTONIO MARTINO *is a professor of monetary history and policy at the University of Rome.*

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Reluctant Heroes

Registration and the Draft. *Edited by Martin Anderson (Stanford, California: Hoover Institution).*

The Military Draft. *Edited by Martin Anderson (Stanford, California: Hoover Institution).*

A mob attacks your home, but your neighbor won't volunteer to help repel it. Do you have the right to force him to help? This is the dilemma of conscription. The problem does not change if the mob is regimented or wears uniforms, or if you and your neighbor have a long history of cooperation. Even if the two of you have confederated, what obligations he owes are owed to *you*, not the legal abstraction of a state. It is hard to see the basis of that obligation. The liberal theory of the state presumes against coercion, especially of those who are themselves coercing nobody. It recognizes your neighbor's moral duty to aid you, and his own interest in resisting the mob before it turns on him, but none of this justifies your threatening him if he refuses to make common cause with you. Indeed, with the exception of the Civil War draft and its attendant provisions for hiring substitutes and purchasing commutation, voluntarism was the military manpower policy of the United States until 1940. The exigencies of World War II, the Cold War, and Vietnam kept the draft in place until the All-Volunteer Force (AVF) replaced it in 1973 at the behest of Richard Nixon. Ronald Reagan has "reaffirmed his commitment" (as politicians like to say) to the AVF, and a return to the draft is unlikely in the near future.

The Military Draft and *Registration and the Draft*, both edited by Martin Anderson—one of the architects of the AVF—present the cases for and against conscription and examine the performance of the AVF. The former volume assembles forty-one readings on the historical, philosophical, legal, and economic dimensions of the draft; the latter contains the proceedings of a Hoover Institution conference on the AVF held in late 1979. Both books include extensive discussions of national service schemes for drafting all young men (and women, of course, this being the age of feminism) for nonmilitary tasks the government thinks need doing.

It is somewhat misleading to represent *The Military Draft* as a debate between covers, since the editor's very apparent antipathy to conscription has created a rather one-sided book. Its four philosophers would be uniformly antidraft did not Hugo Bedau approve the conscription of Cubans, who "have [a] moral obligation to provide the armed forces needed to defend their socialist society against a counterrevolutionary invasion by imperialistic neighbors to the north." All the economists find the hidden costs of conscription—chiefly the "tax" paid by conscripts forced to serve at lower wages than they would have commanded had the government been forced to bid for their services—comparable to the overt extra costs in higher pay and more ample benefits of a voluntary system. A selection from Chief Justice Edward White's World War I decision upholding the draft is bracketed by a demurrer from Civil War Chief Justice Roger Taney and a seventy-page antidraft analysis of *The Federalist* and allied documents by Leon Friedman. The final two sections oppose seven proconscription polemics to seven against, but the pro position is defended weakly and foolishly. Among the advantages cited, the draft can intimidate dissent (Louis Hershey) and open the door to conscription for all war work (Congressman James Wadsworth, speaking in 1943). With advocacy like this, the draft needs no opposition. The constitutionality of the draft is well defended in War Secretary Monroe's 1814 call for a draft of 4 percent of the "free male population," but Mr. Anderson cannot resist informing the reader in a footnote that a later selection contains "an eloquent argument against this plan."

But Can They Fight?

It is almost as misleading to call *Registration and the Draft* an evaluation of the AVF. The conferees present abundant statistics about enlistment, retention, the color and mental levels of recruits, and the cost and "equity" of the AVF, random conscription, and conscription with exemptions. Almost totally absent, despite some provoking questions from the floor, is any discussion of whether the AVF can fight. Pete McCloskey thinks it cannot, but his criticisms are entangled with his own particularly ill-thought-out national service plan (he makes no provision for 18-year-old mothers). Economists like Martin Binkin tend to dismiss the issue of whether the AVF works, when taken beyond procurement numbers, as ill-defined. In fact, the mission of the military is quite clear: to be visibly able to destroy any enemy's combat capability. The Army remains the most populous branch of the military and exists so that its fighting man can, under extremely adverse conditions, hold the enemy in his sights and pull the trigger. Those "push-button wars of the future," in which the only combatants are computers, have stayed where they are set—in the future.

The statistics themselves, however, reveal an AVF far less combat-effective than its nearest counterpart, the last peacetime conscript armed services of 1964. Against 2.65 million in 1964, our active forces now number fewer than 2.1 million. Recruitment has matched De-

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STRANGE EFFECT OF THE DRAFT.
"One of the most singular Phenomena of the day is the remarkable increase of QUAKERISM in the Sixth Ward in this City."
(*Forthcoming Municipal Statistics.*)

As this 1862 cartoon shows, the nation has had trouble with the draft before.

fense Department authorization because authorizations have inched downward. (The Marines admit to reducing their ranks to preserve quality.) The Individual Ready Reserve fell from 800,000 to 400,000 in the same period, and by any count our overall reserves are at least 600,000 under strength. First-term attrition is trending up, statistical blips aside. Ironically and ominously, a 1966 pro-draft Defense Department estimated that an unemployment rate of 4 percent would sustain an active force of 2 million men; even correcting for the greater representation of women in current unemployment figures, a rate twice that has turned out to be barely sufficient. Whatever the precise statistical relation, it is bizarre to base manpower policy so blatantly on hard times.

The mental caliber and educational attainment of recruits—the best predictor of combat effectiveness—is falling. College students, who once volunteered in hopes of escaping the less favorable terms of draft induction, now avoid the Army altogether. Although more than 80 percent of the male population complete high school, more than 40 percent of the male Army recruits with no prior service (NPS) have not. Training manuals are now written in comic book form. More than a third of the NPS Army males are black, and the proportion in combat units is higher. These blacks may not literally be mercenaries—they are serving their own country, after all—but one must question the reliability of troops raised by the general culture to believe in a hostile and "racist" America. We have the best armed forces money can buy, and it shows.

Both volumes scant the AVF's principal novelty: the feminization of the military. Women now form 10 percent of the armed forces, a figure that was slated to rise to 12 percent by 1985; the Reagan Pentagon, however, "paused." In 1979, the year of the Hoover conference, 13.2 percent of the Army's enlistees were female. For the first time in world history, a nation has fielded an Army composed significantly of women. The Soviet military, less interested in raising consciousnesses than winning battles, counts only 10,000 women among its 4.8 million souls. Only one selection in *The Military Draft* discusses this sea change—M. C. Devilbiss warns that women will remain second-class citizens without "the right" to serve in combat—but the Hoover conferees are lost in fantasy. Richard Hunter and Gary Nelson seriously broach a "representative" Army 51 percent female but primly note that "the DOD does not propose such a goal." Here is Charles Moskos, who at least recognizes that military

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service is not just one more job, on "the major dilemma" that "precludes the utilization of women in the combat arms for the foreseeable future":

> To allow women the choice of whether or not to volunteer for the combat arms would lead men to ask for the same prerogative . . . If regulations were changed so that women could be compelled to serve in the combat arms, as is presently the case for men . . . the end result would almost certainly be a sharp drop in the number of women who would volunteer to join the Army in the first place.

That's *it?* That is the *only* reason for excluding women from combat? Well, these commentators and then–Air Force Undersecretary Antonia Chayes parrot feminist dogma about "stereotypes" and the lack of female "role models," and they reflexively group women with blacks in every discussion. They seem innocent of the mountains of physiological and anthropological evidence of the male's greater aggressiveness, and they fail to recognize the insult implicit in telling young men that mortal combat, the supreme test of manhood, is for girls. The conclusion is inescapable: These people believe that women are short men.

In any case, their reflections on women in the military have been dated by *Women in the Army,* a report brought out by the Army in November 1982. Struggling to remain "gender-free" but regretfully concluding that women are weaker than men, the Army closed twenty-three occupational specialties to women and ended unisex combat training. The usual reluctance of the military to admit mistakes, especially so soon after making them and especially mistakes instigated by the ideology of its civilian commanders, suggests that the "integration" of women has been nothing short of disastrous. One can only guess what the Soviets have surmised about our seriousness from this ongoing tragicomedy (the Navy has women on its ships by order of Federal Judge John Sirica). Women do have a role in the military—the traditional one of freeing men to fight—but pushing them into nontraditional jobs hurts morale, and it is insane to train them for combat and set gender quotas for the service academies when women are biologically unsuited to lead fighting men in war.

A Right to Conscript

The failure of the AVF is in practice a compelling argument for a return to the draft, but this is to beg the fundamental question of compulsion. Strikingly, most opponents of the draft accept it in "national emergencies" without explaining their seeming inconsistency. Libertarian Milton Friedman, for example, tolerates *universal* military service, although one would have thought that if forcing men to arms is wrong, forcing all men to arms merely compounds the wrong. Similarly, if the draft is unconstitutional—if "the power to raise an army" does not include the power to draft—these words must retain an identical meaning in peace or war. Either the Founding Fathers gave Congress the right to conscript at its discretion, or they did not. Working the American Civil Liberties Union's end of the political spectrum, lawyer David Landau says that the draft "subverts the very principles on which our nation was founded," but he allows it, by an ad hoc shift, in time of war. The right and the left, each for its own reasons, both maintain that volunteers outperform conscripts; but if so, a war for survival is surely the last occasion for a draft. There are, finally, a number of writers from previous generations who bitterly opposed federal conscription but embraced conscription into local militia. There may be practical differences, but any difference in principle is obscure.

We are, in short, watching opposition to the draft collide with the commonsense axiom that survival justifies normally forbidden steps. I cannot normally knock down a bystander to catch the last bus, but I can if I am taking my son to the hospital. The asymmetry created by the threat of catastrophe runs deep: Common sense permits measures necessary to avert great loss that it forbids in pursuit of great gain. I cannot knock down the innocent bystander even if catching the bus means closing a million-dollar deal.

"If you think I'm violating your rights," says Selective Service, "wait until the Soviet occupation force sends us all to the Kolyma gold fields."

Now, this "right of necessity" is not based on the relative obviousness of threats, since even an uncertain calamity can justify unusual steps. I may knock down the bystander even if my son just might need medical attention, but I cannot knock him down even if I am sure of closing the deal on the bus. Rather, as a first approximation, necessity creates "right" because people cannot be blamed for what they can't help, and they can't help protecting themselves and their families. However, defending the draft as a reflex—I can't help making you help me fight off the mob—ignores its obvious deliberateness and promises to excuse any wrongdoing deemed necessary by the wrongdoer. Moreover, a man who blamelessly violates someone else's rights while protecting himself has still done something wrong, but defenders of the draft see it as morally right. They typically describe military service as a debt owed by a citizen to his fellow citizens for the benefits he has received from his community. Robert Nozick mocks "unwritten contracts not worth the paper they are not written on" and notes that people who insist on bestowing favors do not thereby acquire a right to reciprocation, but the notion of tacit consent to a social contract is not so easily scotched. If it is universally understood that a benefactor expects reciprocation, it does seem that accepting his benefits creates a presumption of acquiescence in the expectation, and that failure to repudiate this presumption amounts to acquiescence itself. The young man who does not intend to serve his country while enjoying its bounty is lying. Moreover, the argument runs, the man who wants

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his society to continue but reserves the right not to fight for it is treating himself as inherently exceptional. He is relying on others *not* to reserve and act on that right, for if everyone did as he intends to do, his society would perish. The slacker who counts on others to save his society for him has violated Kant's categorical imperative or, in older language, the golden rule.

These subtleties, though clearly in the background of the conscription debate, are too uncertain to prove their case. A 15-year-old boy can hardly be said to acquiesce in an interpretation of his actions that he himself is too unsophisticated to comprehend, and just where is he to go if he does not like the terms of social contract? In the end, both the draft and what is sound in the "right of necessity" are justified on utilitarian grounds. If liberty is valuable, all steps must be taken to protect the system that makes liberty possible. "If you think *I'm* violating your rights," says Selective Service to the reluctant recruit, "wait until the Soviet occupation force decides to send us all to the Kolyma gold fields." The liberal presumption against coercion, like any moral principle, becomes fanaticism if held with absolute disregard of consequences. It is wrong to push ninety-nine people around for the sake of a hundred, but the good outweighs the bad in forcibly exposing young men to danger if that is what it takes to defend America. Absent mathematical rules for balancing principles against consequences, one must rely on judgment. This is why the Founding Fathers, who may have disliked conscription and expected it never to be called for, nonetheless conferred on Congress "the power to raise an army" in the broadest language. Paradoxically, perhaps, compelling its citizens to fight for a society affirms its value; it is not uninspiring to hear that one's society is so precious that everything else is secondary to its survival. If you really think that Western civilization with its system of liberty is man's supreme achievement, you will countenance extreme steps to save it. Critics of the draft ask why if the government can conscript for defense, it cannot conscript for the postal service. The answer is the manifestly greater importance of defense. Protecting rights and liberties is what governments are *for;* delivering the mail is optional. If Western civilization came to depend on delivery of a sack of mail that nobody felt like carrying, conscription of mailmen would be permitted. It is that simple.

If Western civilization came to depend on delivery of a sack of mail . . . conscription of mailmen would be permitted. It is that simple.

As there are more than 8 million 18- to 21-year-old men at any one time, taking only one in four would fill even an ambitious manpower program. Curiously, this is said to be unfair to the one who is called. Mark Pauly and Thomas Willett admit that a lottery draft is equitable *ex ante* but deplore the inequity of its *ex post* results. This is surely straining things; that somebody wins a bingo game and somebody loses does not make such random distribution schemes "unfair." The real drawback of a draft lottery is its tendency to pick the engineer and spare the philosophy graduate student. This is why a draft with exemptions is superior—assuming that the government could shake off the contemporary ethos that nobody is better or worse, more or less valuable, than anyone else, and could articulate reasonable exemptions. In "Why We Need a Draft," published in the April 1982 *Commentary,* Eliot Cohen suggests drafting only for the reserves, in the expectation that the core of volunteers for the active forces will be expanded by quasi-volunteers who prefer to avoid the draft. Whatever system is chosen—so long as exemptions do not get out of hand, as they did in the 1960s—fairness is not a significant issue.

The draft, then, really rests on two issues of fact: whether a conscripted Army fights as well as a volunteer one, and whether the present world situation is an emergency. As for the first, and forgetting arguments about the zeal of volunteers, it is not in dispute that conscripts can fight. Our mixed forces did splendidly in World War II and did not turn America into a police state.

So those who oppose the draft, at bottom, simply refuse to believe that we are in danger. They would have been right two centuries ago, when a national emergency meant foreign troops at the border or a foreign fleet entering the harbor. There was sufficient friction—Clausewitz's "gap between conception and execution in war"—for combatants to prepare. But things have changed. The Civil War, extending developments prefigured in the Crimea, introduced not only the machine gun but also electronic signaling and the rapid deployment of troops by rail. For the first time, the outcome of war was influenced by the industrial base of the home territories. The age of Luddendorf's "total war" had arrived. Time and space contracted, as they have been contracting ever since. Tranquil though its harbors are, the United States is gravely threatened. Sheer manpower, of course, cannot deflect an SS-18. More to the point, however, Antonov-22's can ferry Soviet troops to the Middle East oil fields from Afghanistan; Soviet submarines and fighter-bombers can disrupt vital shipping; though unlikely to attack, Warsaw Pact forces poised against Western Europe will, if unopposed, compel Europe to break its ties to America. Where are our borders in such a world? As the doctrine of mutually assured destruction fades, the need for a large and flexible array of forces will again become apparent.

Freedom's Hollow Ring

The army is not a toy for Strangelovean generals in the Pentagon, although the very popularity of this image bespeaks deep problems with national morale. The country has passed beyond cynicism to complete confusion as to what it is about. Politicians who like to say it is about "freedom" must hear the hollow ring, and young men black and white—future recruits—must sense the hypocrisy. Freedom to be productive and independent is everywhere under attack. The last twenty years have witnessed

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absolute protection extended to abortion, topless dancing, and neo-Nazi marches in Jewish neighborhoods. At the same time freedom of association has fallen to "equal opportunity," and freedom of speech has yielded before the government's attack on "sexual harassment." It is illegal to read a prayer from the *Congressional Record* in public schools. The universities are now fiefdoms of the courts, and quotas have made a joke of individual ability. At times, all that seems to separate us from the Soviets is disagreement about how best to manage a command economy.

The AVF might have worked had it begun at a moment of high morale, with enough volunteers to make the draft superfluous. This was not how it happened. President Nixon created the AVF largely to placate (and thereby indirectly confirm) antiwar opinion, at the time scarcely distinguishable from hatred of America in general. The AVF's nihilistic origin has been reflected and amplified by its recruitment campaign. Most of its ads promise gobs of money, and for a while they touted psychological self-development, as if the Army were a vast encounter group. One need not be Spengler to worry about that TV spot in which a blast of acid rock accompanies the carrier landing of an F-14. Just think, joining the Navy is almost as cool as going to a rock concert.

Love of the idea of a country, another name for patriotism, cannot be created at will. Yet it is only necessary to recall the crude but authentic recruiting posters for past wars to appreciate what clarity has been lost—not irrevocably, let us hope.

Nash-Kelvinator ran a magazine advertisement in 1944 that showed a grim pilot, about to take on Zeros at twelve o'clock, imagining a staccato message to his wife. The copy reads, in part,

> I want to tell you what I'm fighting for . . . it's you and our little house and the job I had before . . . and the chance I had, the fighting chance, to go ahead on my own. That's what all of us want out here . . . to win this war . . . to get home . . . To go back to living our lives in a land, and a world, where *every* man is free to grow as great as he's a mind to be . . . where every man has an *unlimited* opportunity to be useful to himself and to his fellow men . . . Tell 'em we'll be back . . . nothing can stop us . . . And tell 'em no matter what they say . . . no matter what they do . . . to stay *free* . . . to keep America a land of *individual freedom!* That's what we're fighting for . . . That's what we're willing to die for . . . That's the America we want when we come home.

In these days of quotas and entitlements and ceaseless litigation, it is difficult for a young man to read those words without a patronizing smile, and I cannot conceive a politician bringing himself to utter them. Yet not many years ago, someone composed those words and expected others to believe them. We had better figure out what happened if we expect any army, conscript or volunteer, to remember what it is fighting for.

Michael Levin

MICHAEL LEVIN *is a professor of philosophy at the City College of New York.*

Alien

Andropov: New Challenge to the West, *by Arnold Beichman and Mikhail S. Bernstam (New York: Stein and Day Publishers).*

The Russian Version of the Second World War, *edited by Graham Lyons (New York: Facts on File Publications).*

It was inevitable that much of the Western media, together with the remnants of the Western foreign policy establishments, would attempt to portray a new boss in the Eastern bloc both as a force for stability and as a Communist with a human face. Yuri Vladimirovich Andropov, who ascended to the general secretaryship of the Communist Party of the Soviet Union (CPSU) on November 15, 1982, and subsequently became president of the U.S.S.R., was simply the beneficiary of a Western need. Whoever had won the tussle to succeed Brezhnev would have been accorded the same lenient treatment.

Pleasant characteristics—a certain liberality, a measure of tolerance, a lack of fanaticism, and the like—would have been attributed to party leaders like Viktor Grishin, Vladimir Dolgikh, Mikhail Gorbachev, or Mr. Andropov's most serious rival for the post, Konstantin Chernenko. Even Mr. Andropov's predecessors at the head of the Soviet security apparatus—the odious Genrikh Yagoda and the repugnant Lavrenti Beria—had they been born later and succeeded to the top (rather than being executed), would have lived to see the gentler side of their natures paraded before Western eyes.

A world both hungering for stability and fearing war quite naturally wants to believe the best of the man placed in authority over the globe's most powerful military machine. And the trivial and often gullible media give people what they want. Also, there is present in the aftermath of any Kremlin succession, when public attention is focused directly though fleetingly upon the rulers of the Soviet regime, a generalized tendency to contain the popular anti-Communist sentiment in the West that might take hold if the record of the new leader were properly scrutinized.

Behind the Mask

Consequently, the KGB disinformation network hardly had to work overtime on Yuri Andropov's image. An impression of a man of Western tastes who liked American jazz—and for a separate generation the tango as well—emerged quite smoothly. The man of intellect and wide sympathies was easy to sell and package.

There was, quite naturally, something of a minor reaction to all of this among highbrow conservative circles within the West, but the initial image flickers on, and some seven months after the event a correspondent for the *New York Times* can refer to Mr. Andropov, without a shred of evidence or the use of named sources, as "said by his associates to be more cosmopolitan than his predecessors."

In this environment it is refreshing to be able to turn to

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the first serious account of Mr. Andropov's background to appear in book form. *Andropov: New Challenge to the West* is a political biography of the new Soviet chief. Mr. Beichman and Mr. Bernstam have produced a scholarly yet timely account of the rise and rise of the office clerk from Stavropol; and in so doing they provide the reader with intriguing glances not only into Mr. Andropov's background and character but also into the nature of the Soviet elite, its system of recruitment, its patterns of rewards and punishments, and the sheer ruthlessness, brutality, and luck needed to survive and prosper within it.

Mr. Andropov worked his way through the Komsomol (the Russian Communist youth organization) and at the age of 23 was working directly under the section of the NKVD (a predecessor of the KGB) that oversaw the Volga construction project and directed the slave labor

. . . Mr. Andropov is at home in the Stalinesque world of slave labor and terror, a guileful operator in the lower reaches of the Communist system.

that built it. During this period the future Soviet chief with liberal tastes evidently worked closely with two of the worst Stalinoid apparatchiks, Yacob Rappoport and Sergei Zhuk, both referred to in some detail in the second volume of Solzhenitsyn's *Gulag Archipelago*. Mr. Beichman and Mr. Bernstam argue that having worked closely with these two was "like having worked for Heinrich Himmler and Adolph Eichmann, in the later Nazi period." And Mr. Andropov was promoted. Later, at age 26, we see him leading, according to the biography, "a team sent to terrorize the population of the newly established Karelo-Finnish Republic."

Mr. Beichman and Mr. Bernstam develop a portrait of the young Mr. Andropov that is, to say the least, unsavory. Their Mr. Andropov is at home in the Stalinesque world of slave labor and terror, a guileful operator in the lower reaches of the Communist system, a Komsomol opportunist carefully developing contacts with patrons in the party in Moscow and in the NKVD. The biographers tell us little about the personal life of the aspiring Mr. Andropov—indeed there is hardly anything known about it—but an investigation into this area would be fruitful, for the new Soviet chief, the man of Western tastes and liberal outlook, hardly derived such human sensibility from his official life.

One of the Gang

One particularly intriguing aspect of Mr. Andropov's rise from local and regional "politics" to the center of events is revealed in this readable biography. Mr. Andropov was evidently a junior member of what Mr. Beichman and Mr. Bernstam discern and describe as a brotherhood within the Communist party, a "loosely organized hierarchical group within the party, one with its own rules, its own traditions and aspirations, a Marxist-Leninist brotherhood of power and strategy." This group included such figures as Mikhail Suslov, Brezhnev, Nikolai Patolichev (Mr. Andropov's patron), Frol Kozlov, and Boris Ponomarev. After the Second World War this brotherhood began to take up key positions in the party apparatus, and in 1952 they began preparing, with Stalin, a new wave of terror and another party purge. But the brotherhood evidently received a serious setback after Stalin's death. The coalition of Georgi Malenkov, Beria, and Khruschev, and then the emergence of Khruschev, virtually exiled Mr. Andropov from the outer ring of power, and he was on his way to the Budapest embassy.

The biographers suggest, however, that the brotherhood succeeded in making a comeback as Khruschev's power waned, and that the key figure was the austere Suslov, who was able to place his client Mr. Andropov into a seat in the party secretariat following the Cuban missile crisis. By 1967, with Brezhnev and Suslov and Mr. Ponomarev increasing their reach and power, the brotherhood was able to secure for Mr. Andropov both a candidate membership in the Politburo and the control of the KGB.

The authors argue that the gang around Suslov, a coterie in which Mr. Andropov was playing an ever-increasing role, was never at home with the destalinization process attempted in the fifties, and that the Khruschev period was, in the words of a key sentence in the book, "in the nature of a long transition between Stalin and the Brezhnev-Suslov coalition." The brotherhood also disliked the party line, still in force years after Khruschev's ouster, that no reference should be made in public to the NKVD, Stalin's instrument for mass terror. Yuri Andropov, obviously hiding his liberal tastes, became so frustrated with this state of affairs that he made an extraordinary speech as early as 1967 that, in effect, resurrected the reputation of the NKVD.

Millenarian Psychopaths

Here was the newly installed KGB chief showing his real colors and speaking for a gang that saw clearly that Communist party power rested securely upon "state security organs"—the NKVD, the NKGB, the MGB, and their present version, the KGB—from day one of the takeover in 1917.

Mr. Beichman and Mr. Bernstam have not only set out to put before their readers a detailed biographical sketch of Yuri Andropov; obviously, they are also attempting a much larger task: to weaken or destroy the Western intelligentsia's fatal attraction to the notion that Soviet leaders are the same kind of species of political being as our own politicians and that they are understandable in Western terms. Robert Conquest, in an introduction to the political biography, argues, "There are those in the West who would simply have us ignore the historical and psychological background of men like Andropov. They would pay no attention to the fact that he and those like him are the products of a history quite alien to our own and are the exemplars of a political psychology of a type

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hardly seen in the West outside small sects of millenarian psychopaths."

For those who remain, after reading this powerful book, unconvinced about Mr. Conquest's thesis that "them" and "us" are utterly different and distinct, I can recommend an intriguing little book entitled *The Russian Version of the Second World War,* edited by Graham Lyons. In his book, published in 1976, Mr. Lyons has compiled an account of the Second World War as seen through the eyes of Soviet authors of Russian schoolbooks. Naturally, things being what they are, these schoolbooks amount to the official history of the war according to the Soviet party. They are deeply instructive.

Any Soviet, or indeed Russian, interpretation of the events of the Second World War is bound to be distinct from those prevalent in the West. Among normal states this is certainly the case: The American view presented in the schools no doubt differs significantly from that of the British, and the British from that of the French. As a young Englishman, I was brought up to believe that we British virtually won the war single-handedly, that the Americans came in late, at the last moment as usual, that the French let us down in 1940, and so forth.

These impressions were culled from schoolbooks, from home life, and from movies. However, these simplistic and distorted notions did not last long as I, together no doubt with my generation in other democratic countries, gained access to other points of view, read more scholarly interpretations, and traveled. There was certainly no official view of the Second World War imposed upon me, and there was also a good deal of plain old anti-British sentiment in many of the schoolbooks. Just as American schoolchildren today are instructed in the wickedness of the American war in Vietnam, so were British schoolchildren told about the evils of the British Empire.

These points need to be borne in mind when one reads *The Russian Version.* It is not actually the Russian version; it is rather the Soviet Communist party version, a point strangely omitted by the editor. Furthermore, it is the only version available to any Soviet citizen.

The Fraternal Soviet Family

But the main interest in this small book lies in some of the breathtaking assertions made by Yuri Andropov's KGB as it helped prepare and approve this history. Let us take the official account of the Nazi-Soviet pact, which is called, interestingly, the Soviet-German Non-Aggression Pact. It is argued that the Soviets were right to sign because the pact "enabled the Soviet Union to avoid war on two fronts and to gain time to strengthen the country's defenses." Evidently, "the Soviet government realized that Hitler had not given up his plans for war against the Soviet Union, and his proposal was a routine manœuvre of the Fascist leadership."

Following the pact, "The Nazis could not be allowed to reach the Soviet border . . . This is why in pursuance of its liberation mission the Soviet Army marched into the Western Ukraine and West Byelorussia, where it was enthusiastically welcomed by the population." Then, "Throughout October 1939, democratic elections were held in the newly liberated areas to people's assemblies. Acting on the will of the people, these assemblies proclaimed Soviet power and requested the Supreme Soviet to admit Western Ukraine and Western Byelorussia in the fraternal family of Soviet nations. The Supreme Soviet complied."

The Soviet invasion of Finland, described as "armed conflict with Finland," is treated in the following way: "The Soviet state was faced with the acute problem of further strengthening its security, in particular on the frontier with Finland . . . At the end of November 1939, artillery fire directed in provocation against our territory from the Finnish side forced the Soviet government to take retaliatory measures. Thus Finnish reactionary forces, incited by Fascist Germany and the other imperialist powers, unleashed war against the Soviet Union."

The Orwellian doublespeak and the "big lie" that infuse this Russian version of history take the whole issue beyond rational argument.

The incorporation of the Baltic states into the Soviet system is dealt with in the following way: "The German invasion of Poland also added to the danger of a Nazi attack upon the Soviet Union from the Baltic shore . . . There was the danger that they [the Baltic states] would become German vassal states . . . In view of this the Soviet government approached the Baltic governments with the offer of mutual assistance treaties. The Soviet proposals were met favorably by the peoples of these countries, and their Governments gave their consent . . . The treaties fortified the defenses of the Soviet Union and the Baltic republics."

One is tempted, even in the medium of a review, simply to reproduce quote after quote from *The Russian Version,* and without comment. Soviet "historians" can rightly argue that it was the Soviet Union that bore the brunt of the fighting and the horror, and there is now a preponderance of Western opinion that would agree with them. But the sheer Orwellian doublespeak and the "big lie" technique that infuse this Russian version on so many other fronts take the whole issue beyond rational argument.

The madness of it all is that the Soviet historians who wrote this version may even believe in it. Can Robert Conquest be gainsayed when he argues that men like Yuri Andropov are "products of a history quite alien to our own"?

Stephen Haseler

STEPHEN HASELER *is a visiting professor at Georgetown University and a visiting fellow at the Ethics and Public Policy Center. His most recent book is* The Tragedy of Labor, *published by Blackwell's of Oxford.*

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Twentieth-Century Blues

Modern Times: The World from the Twenties to the Eighties, *by Paul Johnson (New York: Harper & Row).*

This huge and enthralling work is the most important that Paul Johnson has written to date. Mr. Johnson has always been at pains to assert that he is not a professional historian. So be it. If top professors of history have to make their way through initial decades of exact and detailed monographs, penning more and more about less and less, we can at least be grateful for the intrepid outsider, voraciously scouring the established secondary sources and, in this case, willing to stick out his intellectual neck in the pursuit of large and essentially ethical propositions. Mr. Johnson has always been a moralist, with an unshakeable belief in democracy and the rule of law. At some time in the mid-1970s he turned away from the view that a socialist state was the best vehicle for the pursuit of these desiderata. The book exemplifies his conviction that in so far as decency and prosperity are achievable in this vale of tears, they require the parallel development of a private citizenry and capitalist markets.

The range is very impressive. Mr. Johnson's history is cultural, intellectual, political, economic, technological, and military. Despite the grave problems of organization and chronology that this range presents, Mr. Johnson manages to turn out his case as a generally coherent whole.

It helps if one shares an author's preferences, reserving the epithet "prejudice" for disagreements. Mr. Johnson is against the one-party state, the planned economy, indeed the expansion of state power *tout court*. His individual heroes are the matchless Churchill; the tough, modest, and quick-to-learn Truman; the calm and upright Adenauer, totally uncorrupted by his country's recent dark past.

Mr. Johnson's greatest praise goes to Eisenhower, brilliantly hiding his deep and industrious statesmanship behind a golfer's languor, and to de Gaulle with his combination of patriotism, realism, and long-sighted historical vision.

And Mr. Johnson is in no doubt about the main threat to the development of the peace and prosperity of the world. The Soviet Union—with its decision-making structures essentially unaltered since the Stalinist nightmare, its huge empire of coerced peoples, its rapidly expanding military and naval power, its creaking economy, its surrogate Cuban armies in Africa, and its fomenting of international terrorism and training of terrorists—remains incomparably the greatest threat our civilization has yet had to face. All this Mr. Johnson recounts in frightening and unforgettable detail.

Similarly, Mr. Johnson makes clear a message that non-Americans who love freedom have a duty to articulate from time to time in the terrifying circumstances of our century: the enormous debt civilization will owe, if it endures, to the United States of America. The wisdom and magnanimity with which the Americans treated their impoverished allies and defeated enemies in the period following the Second World War will surely be recorded by future historians as among the pinnacles of human political and economic achievement.

On the whole, however, this is not the main thrust of Mr. Johnson's assessment. He surveys our century, for the most part, with alarm and disdain. He is surely right. A century that possesses the means to banish the ancient specters of material and political deprivation has perpetuated and expanded them beyond measure. All in all, the human race has got it wrong in the twentieth century. Our failures are the central feature of our era. Mr. Johnson is mapping them.

In his treatment of the moral collapses of our century he conveys a controlled anger and contempt. The very flatness of his discussion of the Nazi Holocaust somehow reinforces the horror of it all. Similarly, in his analysis of what he counts as good, such as the extraordinary affluence and freedom some twentieth-century peoples have enjoyed, he reveals a vigorous but cautious enthusiasm. Progress can be reversed, as it was in Nazi Germany, as it still is in Argentina, if we are not watchful of the ever-threatening state Leviathan.

Direful Hypertrophy

If I have reservations, they come under two headings. At times Mr. Johnson's connections are rather tightly asserted but not very adequately demonstrated. At other times he is guilty of the opposite fault, in that he comprehensively demonstrates that which he has not sufficiently tightly theorized.

An example of the first deficiency is the connection Mr. Johnson makes between the development of ethical relativism and the disastrous nihilism embodied in the hypertrophy of the state. Mr. Johnson is quite right to make this hypertrophy the central theme of his book. The material poverty and political tyranny in which the majority of mankind are forced to live are indeed very often the direct consequences of this direful growth. Moreover, he is quite right that once overweening state power is established, it is extraordinarily difficult to reverse.

However, it is going too far to argue that ethical relativism leads inevitably to political wickedness. It is clearly the case that the tyrants of the twentieth century have often systematically disembarrassed themselves of the moral constraints of absolute values. What those of us who are of Christian outlook must face up to, however, is that many civilized individuals, committed to the rule of law and ardently devoted to the defense of the liberal order, do not enjoy the benefits of religion. Mr. Johnson demonstrates that twentieth-century tyranny often involves relativism but not that it follows from it. Indeed, the sorts of theocratic horrors that Mr. Johnson also documents in the case of Iran show that the misguided enlistment of religion in the service of politics retains a potential as appalling in the twentieth as in the sixteenth century. I can go most of the way with the Christian counterfactual that underlies Mr. Johnson's indictment

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of totalitarianism, but I cannot rid myself of the suspicion that a Russia of which Alexander Solzhenitsyn might approve might also be a rather grim place. There is in Mr. Johnson's book a sort of half-hidden naturalistic fallacy. The erosion of absolute values has coincided with the most appalling wickedness. Ergo, absolute values must be true.

Monstrous Leaders

The second error, that of insufficient theorizing in the midst of ample documentation, is seen in Mr. Johnson's sections on Lenin, Hitler, Stalin, Mao Tse-tung, and numerous other twentieth-century monsters. The problem is really Mr. Johnson's hostility to sociology. The nominally Marxist members in the above list, for example, were not, as Mr. Johnson observes, really Marxists at all in some crucial ways. This is not a question of the absurd tendency to say that Soviet Russia, to take the obvious case, is not a Marxist-socialist society simply because it is manifestly so gruesome. This is a fallback position of untestable pseudoscience. Soviet Russia, with its nationalized capital stock, centrally planned and heavily demonetized economy, *does* largely conform actually, if not historically and developmentally, to the classic Marxist prescriptions. No, the central non-Marxism of Lenin and Mao, which Mr. Johnson brings out so well, lay in their philosophy of history. Where Marx had argued that historical development moves inexorably by identifiable laws of socioeconomic motion, with thinking men able only marginally to accelerate or restrain the unfolding process, men like Lenin and Mao in practice embraced an extremely voluntarist view of history, holding that with the appropriate determination leaders of sufficient vision could build up structures of decision making calculated to shake empires and change the world.

This voluntarism, which in the hands of intolerant fanatics becomes a debased idealism, gives the central lie to the Marxist historical vision. Far from being the creatures of deep-seated changes in economic structures, with mental life only a subsequent and epiphenomenal echo, the Marxist and Fascist revolutions have been propelled by psychological motors: lust for power and territory, envy, guilt, a rage to destroy, a mania for revenge. How well Mr. Johnson shows the administrative lessons Hitler learned from Lenin! How well he charts the grotesque mutual admiration Hitler and Stalin felt for each other! Most convincing is his identification of the sinister romanticism and love of cheap drama that make Hitler and Mao such comparable figures!

Mr. Johnson's verdicts on other despots are convincing. Mussolini, originally a Marxist, intellectually far superior to Hitler, formerly remote from anti-Semitism, was drawn into the Hitlerite orbit mainly through personal vanity and the weakness of the Italian state. Even the Abyssinian episode is rethought. Haile Selassie was a despotic anachronism, his membership in the League of Nations a moral nonsense. Similarly, the modern United Nations is, as Mr. Johnson portrays it, a hideous joke, financed by Western taxpayers, the instrument of totalitarian plotting and the machinations of the racist and power-hungry hypocrites who control the governments of the Third World. There are convincing sketches of all the appropriate notables.

What is missing, in the large scale of Mr. Johnson's political and moral geography, is any attempt to reconceptualize the terrain sociologically. Mr. Johnson needs to add to his formidable grasp of politics, economics, and historical movement a comparable familiarity with sociology. I understand his frequently voiced rejection. The horrid scientistic terminology, the hijacking of the subject in many countries by fifth-rate Neo-Marxists, the murderous uses to which it has been put by the prostitute administrators of apartheid in South Africa—not one of these is a happy example for sociology. Mr. Johnson regards social science as now discredited.

Nevertheless, the way forward lies in the development of a new sociological taxonomy. Having shown the mor-

Violent coercion—episodic in feudalism, endemic in slavery, always close to hand in all police states—is pandemic . . . in modern Marxist states.

al, intellectual, and administrative similarities of the aspiring totalitarian movements, having identified fascism, quite convincingly, as a Marxist heresy, having argued that totalitarianism involves the barbarous reappearance of notions like collective guilt, Mr. Johnson nevertheless continues in his crucial third chapter, "Waiting for Hitler," to speak in the bankrupt terminology of the "left" and the "right." Having observed the atavistic and converging nature of the twentieth-century threats to the liberal order, he renders impossible a sharp tracing of their anatomy by his use of these obfuscating terms.

His later sections on the post-1945 economic recovery of European civilization, based on a combination of capitalist economics and democratic politics, which promoted in turn the even more phenomenal development of parts of the Far East, point the way toward a new and viable sociological taxonomy that Mr. Johnson does not apply. Is not liberal society (the combination of capitalism and democracy) *the* historical newcomer? Are not the claims of novelty advanced by totalitarian movements, at least in the long run, manifestly false, fascism and communism constituting the emergence not of new but of ancient political forms? Marxism, the central challenge to civilization in the twentieth century, is atavism masquerading as progress.

The most historically dramatic feature of the liberal society is its extraordinary ability to generate consensus. Violent coercion—episodic in feudalism, endemic in slavery, always close to hand in all police states—is pandemic (to use a favorite Johnson term) in modern Marxist states. Given that all social order must rest somewhere between agreement and coercion, this striking sociological distinction between capitalism and socialism remains

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strangely unexplored. This can be righted only through a sociology of economic transactions—a sociology of investment, of consumption, and above all of human capital formation. Widespread economic decision making by individual citizens is the social cement of the liberal order.

Though Mr. Johnson cannot properly be chided for failing to develop, even in embryo, this sociology, it is important to note its potential, since its absence leaves a huge gap in his argument and, indeed, imparts to that argument much of its pessimistic bias. Fundamentally, I contend, the advanced liberal society is strong, its authority deriving from its roots in widespread consensus. Police regimes, by contrast, are weak, founded on terror and deceit. Though Mr. Johnson is aware of this crucial distinction, he does not pursue it, and it does not serve to temper his outlook, which is on the whole overpessimistic, too closely tied to Joseph Schumpeter's thesis of the self-destructive nature of the critical forces at work in democratic societies.

This thesis is powerful but nevertheless only partial. It can make some sense if, for example, a period of educational expansion comes to involve disproportionate emphasis given to the wisdom of Marxist or semi-Marxist intellectuals. The radicalization of some sections of the American and British student estate in the 1960s is a case in point. But in France, to take an obvious example, *pace* the troubles of 1968, widespread sympathy for Marxism had not generally inhibited the capitalist economy. And paradoxically, now that the Marxist afflatus has largely been spent in that country, France is in rather greater economic difficulties than hitherto.

International Follies

Criticism is the lifeblood of a dynamic order. Although the environmental lobby in the United States did go too far in the recent past, laying unnecessary burdens on producers, it is in any case in the international sphere that false criticism (wrong diagnosis of present ills) has done its worst damage in recent decades. From the naive anti-imperialism typified by Roosevelt, which so greatly helped the Soviets consolidate their position after the Second World War, to the establishment of the United Nations and its agencies (the revivification of earlier manias), it has, as Mr. Johnson shows, been the international rather than the domestic follies of the advanced liberal societies that threaten the world. The homegrown critiques of the United States by American or refugee scholars have been mainly directed at her *international* position. The pseudoradical intellectuals of the advanced countries are generally far sillier about foreigners than they are about themselves. Thus it is the poor and weak of the world who must now pay for the demise of the older European empires and for the virulent anti-Americanism that has been promoted by Western intellectuals and their eager disciples in the Third World. It is Israel that must pick up the tab for the way the United Nations has been allowed by the advanced societies to become a gangsters' forum. It is the exploited and the downtrodden who must suffer the "socialist" remedy flowing from the false thesis that the rich societies are rich on the backs of the poor. As it happens, Mr. Johnson does not mention the worst contemporary culprit, André Gundar Frank, a British professor and refugee scholar of Neo-Marxist theories of "imperialism."

Mr. Johnson is well aware of the law of reversed intentions, the frustration of human purposes that may render intended good as bad as intended ill. Indeed, that is what much of his book is about. I would have welcomed some sharper comments on the problem.

There is a Catch-22 atmosphere about contemporary historical evaluation. Try the socialist experiment: It does not work. Free the United Nations from the control of the advanced liberal nations that finance it: It becomes a force not for order and liberation but for chaos, subversion, and despotism. The irony, however, is that until you try, you do not know. We can see now that on balance, the role of Europe in Africa was beneficial. We can see now that what Africa and India needed was not the socialism that perpetuates their poverty and ancient inhumanities but a capitalist system that could have wrought wonders. But who knew at the time? Mr. Johnson himself, two and a half decades ago, was as much bewitched by socialist brotherhood as he was misled by the legend of Eisenhower the flaneur.[1] Is it the lot of scholars who advocate the betterment of their fellows that they are condemned to cry over historical spilt milk? Given that in face of all the evidence there remain many who acclaim the socialist way, would they not, had colonialism persisted longer, and capitalism spread where it has in reality been reversed, have been larger in number, their voices by now more insistent still? Is not progress a terrifying and vast game of trial and error?

More than this, there is a case for arguing that Mr. Johnson's characterization of our century is misleading in its emphasis. Manifestly he is right that capitalism and democracy are threatened by totalitarianism. He rather loses sight of the fact that in the last thirty years, it has been communism that feels threatened by capitalism, justifiably indeed, since the latter is enormously more attractive to most people. The logic of Polish Solidarity, as the Russians rather reluctantly and correctly came to recognize, is a capitalist logic.[2] If men and women clamor successfully for the free circulation of ideas, others, not far behind, will soon be demanding a free circulation of economic resources.

These reservations aside, I think it clear that Mr. Johnson has written an enormously important book, which no one who cares about freedom, decency, and prosperity can properly ignore.

Dennis J. O'Keeffe

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1. Paul Johnson, *The Suez War* (MacGibbon and Kee), 1957.
2. My friend Marek Garstecki, one of Solidarity's representatives in London, holds that the Russians wanted Solidarity to work, just as they want the Hungarian decentralized economy to prosper. So desperate is the Soviet situation that the Russian leaders are interested in "experiments."

DENNIS J. O'KEEFFE *is a senior lecturer in the sociology of education at Polytechnic of North London.*

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A Good Man Fallen Among Journalists

A Life with the Printed Word, *by John Chamberlain; introduction by William F. Buckley, Jr. (Regnery Gateway).*

During the late thirties, when I was an undergraduate, I was considerably irritated by many of the book reviews appearing in *Harper's* and *Scribner's*. The author of those reviews adhered to the set of concepts more recently described as "ritualistic liberalism" and "disintegrated liberalism." A few years earlier this confounded reviewer had published a glum radical book entitled *Farewell to Reform*, in which he had despaired of Progressivism, capitalism, and all that. His name was John Chamberlain.

Nearly half a century later, Chamberlain's name still appears in a great many papers, but not the same papers. He began his variegated career in journalism as a *New York Times* reporter in the 1920s; presently he was permitted to write some book reviews for the Sunday book magazine. (The first good book turned over to him was G. K. Chesterton's *Return of Don Quixote*.) Nowadays Mr. Chamberlain says that the *New York Times* prints all the news that fits, and he has become the staunchest journalistic champion of the competitive American economy.

Mr. Chamberlain's sea change into something new and strange commenced early in the thirties, when he was taken aback by the dishonesty and the ruthlessness of the communists on either side of the Atlantic. Gradually he ceased to associate with the Leninists and Stalinists; he dropped out of the League of American Writers. Three books converted him to a kind of Jeffersonianism: Albert Jay Nock's *Our Enemy the State*, Isabel Paterson's *The God of the Machine*, and Rose Wilder Lane's *The Discovery of Freedom*. The complex story of John Chamberlain's change of mind is full of interest and is related with perfect candor.

Persistence

In honesty and kindliness, no journalist of this century has excelled John Chamberlain. Arthur Machen spoke of journalism as "a damnable vile business," withdrawing from that occupation to a life of poverty. With unassuming integrity, Mr. Chamberlain has persisted in journalism for six decades. He has written for the *New York Times, Harper's, Scribner's, Fortune, Life,* the *New Republic,* the *Progressive, Barron's,* the *Wall Street Journal,* the *Freeman, National Review, Human Events,* King Features Syndicate, and Lord knows what other newspapers and magazines; he has been an editor of some of those publications, a professor of journalism, and the dean of a journalism school. How tireless, how patient!

Also Mr. Chamberlain has written five books, two of which I am especially commending in a school textbook on economics that I have just completed. Once upon a time he denounced American business *and industry* almost without reservation; now he applauds the American economy almost without reservation. He defends even carbon monoxide: "The Naderites can legitimately complain about smog, but if it had not been for the internal combustion engine we would have had no decentralization, and millions would now be piled on top of millions in a dozen American versions of India's Calcutta." (Here Chamberlain exceeds Kirk in championship of the American Way: After all, there are, or were, commuter trains, subways, streetcars, and other modes of transportation besides one commuter, one car.)

A Life with the Printed Word contains a good deal of information about men of letters and men of politics that one finds nowhere else. The Chamberlain analysis of the climate of opinion in New York journalism and book publishing—particularly his knowledge of what has occurred within the apparatus of the *New York Times*—will explain to not a few readers the interesting disparity between popular convictions in America and the attitudes of quasi-intellectual Manhattan. As T. S. Eliot remarked once, the worst form of expatriation for an American writer is residence in New York City.

Modesty

Late in the 1950s, an old friend of mine remarked to me that a sense of *maya* came over him when he looked at the names of eminent men writing in publications of a conservative cast, names much honored in conservative quarters: John Chamberlain, John T. Flynn, Max Eastman, John Dos Passos, Henry Hazlitt, Whittaker Chambers—yesteryear's radicals. They and other people who crossed the river to the right bank had not been bought by The Interests. Several of them, Mr. Chambers especially, believed that they had joined the losing side when they cut their ties with the left. What brought about their change of allegiance was this, primarily: They could not live a lie.

Mr. Chamberlain's autobiography reflects his modesty, but it merely implies how very hard he has labored in the cause of freedom and the cause of truthful journalism. Never an ideologue, Mr. Chamberlain developed a keen eye for practical consequences of grandiose measures. His visit to Britain in 1946—he being sent there by *Life* to write a series of articles on leaders of the Labour party—"just about completed [his] conversion to a frankly pro-capitalist philosophy of voluntarism." Thereafter, when I happened to read John Chamberlain somewhere or other, I no longer gritted my teeth.

Given fourscore more influential journalists of Mr. Chamberlain's character, American journalism would cease to be a damnable vile business. Among syndicated columnists, at least, considerable improvement has occurred during recent years. John Chamberlain has accomplished something to redeem the time, politically and economically.

Russell Kirk

RUSSELL KIRK *is the author of many books, including the* Portable Conservative Reader *(Viking) and* Reclaiming a Patrimony *(Heritage Foundation).*

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Averting Armageddon

The Fate of the Earth, *by Jonathan Schell (New York: Alfred A. Knopf).*

Nuclear Illusion and Reality, *by Solly Zuckerman (New York: Viking).*

The Nuclear Delusion: Soviet-American Relations in the Atomic Age, *by George F. Kennan (New York: Pantheon).*

The Nuclear Revolution: International Politics before and after Hiroshima, *by Michael Mandelbaum (New York: Cambridge University Press).*

The Soviet Union and the Arms Race, *by David Holloway (London: Yale University Press).*

Soviet Strategic Forces: Requirements and Responses, *by Robert P. Berman and John C. Baker (Washington, D.C.: Brookings Institution).*

Jonathan Schell's *The Fate of the Earth* is the most important of the books listed above; it is also the most shallow.

Yes, "we have been largely dead to the nuclear peril" during the thirty-eight years of the nuclear age; yes, "we have found it much easier to dig our own grave than to think about the fact that we are doing so." The value of *The Fate of the Earth* is that it exhorts us to pierce the veil of denial and indifference and confront the awful enormity of the crisis. The crisis, as Mr. Schell plausibly argues, is not only that nuclear war would destroy the United States and the Soviet Union as functioning societies, but that it could possibly result in the extinction of human life.[1]

The "chief reality of the age" is that we live "in a universe whose fundamental substance contains a supply of energy with which we can extinguish ourselves." Human extinction is a possibility because of the secondary environmental effects that could result from nuclear war, following the unimaginable destruction in the warring countries from the initial radiation, fireballs, thermal pulses, blast waves, mass fires, and fallout. These effects may include depletion of the ozone layer that shields the earth against harm from the sun's rays, disruption of the ecological balance from damage to the food chain and from a significant decrease of photosynthesis in plants, and poisoning of all vertebrates by sharply increased levels of vitamin D in the skin from increased ultraviolet light.

The heart of Mr. Schell's plea is that

> . . . present levels of global armament are great enough to possibly extinguish the species if a holocaust should occur; that in extinction every human purpose would be lost; that because once the species has been extinguished there will be no second chance, and the game will be over for all time; that therefore this possibility must be dealt with morally and politically, as though it were a certainty; and that either by accident or by design a holocaust can occur at any second . . .

If we face up to these brutal facts, then "whatever political views we may hold on other matters, we are driven almost inescapably to take action to rid the world of nuclear arms."

Having described the "nuclear predicament" in graphic, albeit repetitive, detail, how does Mr. Schell deal with its moral and political dimensions? Alas, very poorly. His moral concern is not at all matched by the intelligence of his discussion of these dimensions. He passionately argues the need to confront the nuclear predicament but then evades the moral and political dilemmas that accompany it.

Undreamed Dreams

The author argues at great length that the possibility of human extinction requires that we act as if it is a certainty, and that no human purpose can outweigh survival of the species. The logical conclusion he should draw, particularly since he repudiates the principle of deterrence (on which the United States has relied for decades), is that unilateral U.S. nuclear disarmament and pacifism are the only sane policies. Almost forty years of efforts to control nuclear arms, starting with the Baruch Plan in 1946, have failed to stop their accumulation. Only by taking the most dramatic step can we hope to persuade the Kremlin to agree with us to disarm. Surely, Mr. Schell's view of the crisis demands nothing less.

He indirectly addresses the unilateralist position when he writes that we must never raise the things in the life of mankind that have worth "above our respect for that life's existence." To do this, he continues,

> . . . would be to make of our highest ideals so many swords with which to destroy ourselves. To sum up the worth of our species by reference to some particular standard, goal, or ideology, no matter how elevated or noble it might be, would be to prepare the way for extinction. . . . Only a generation that believed itself to be in possession of final, absolute truth could ever conclude that it had reason to put an end to human life, and only generations that recognized the limits to their own wisdom and virtue would be likely to subordinate their interests and dreams to the as yet unformed interests and undreamed dreams of the future generations, and let human life go on.

But what kind of human life? The question is not whether we believe it may be right to end human life in the name of "final, absolute truth" but whether we can uphold our truths in a nuclear world. This is less of a problem for those who do not believe there are any truths other than the imperative to survive. But what if the price of survival is subjugation by the Soviet Union? To many, this would be as disastrous as human extinction, since

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without freedom there is no humanity. Exactly how do we balance survival with freedom? The question, then, is the fate of freedom, not only the fate of the earth.

A Silly Panacea

There are other problems with unilateralism and pacifism; one is how, having disarmed, we would defend ourselves against the almost inevitable development of a Libyan or PLO bomb. But the unilateralist-pacifist position can be argued persuasively, and those who hold it deserve respect for their honesty.

Rather than give us straight answers to these fundamental moral and political problems, Mr. Schell offers a fatuous proposal for world government without telling us how to achieve it. This is a noble idea, but it is so at odds with the grim realities of the world that, given the urgency of his theme and the passion of his argument, one is left almost in dismay at the immaturity of the conclusion. There are no easy answers. Mr. Schell, unfortunately, evades even the questions. His offering of a panacea that ignores realities encourages his readers to look for other solutions that are also based on a refusal to look at the world as it is.[2] Such panaceas actually increase the danger of war.

The nuclear freeze is an example. An idea that sounds eminently fair and simple to those newly awakened to the peril, it ignores the details of the strategic balance, including the advanced age of U.S. forces compared with the Soviets'. One comparison may be noted. Three quarters of U.S. strategic nuclear warheads are on missiles, submarines, and bombers that are more than fifteen years old, whereas three quarters of Soviet warheads are on missiles, submarines, and bombers five years old or less. By the normal process of aging, U.S. forces will lose their effectiveness earlier than will Soviet forces. When the freeze debate started in the House of Representatives last March, it was clear that many of the freeze leaders, at least some of whom were probably influenced by Mr. Schell's book, had not even considered the obsolescence issue.

By falling back on a simplistic idea that ignores international realities and minimizes or overlooks the truth about Soviet power, Mr. Schell is guilty of a self-deception as bad as our alleged refusal to face the danger of extinction. His book is not helpful in fostering the debate that should follow a new, more profound recognition of the nuclear peril.

Two more politically thoughtful books are the short volumes by Solly Zuckerman and George Kennan. Lord Zuckerman is one of Britain's most distinguished scientists and was a long-time scientific adviser to his government. His book, *Nuclear Illusion and Reality,* is an incisive critique of the central issues of nuclear warfare by someone involved with them for more than thirty years. Likewise, Mr. Kennan's career demands that anything he says on the subject receive serious attention. *The Nuclear Delusion* is a collection of articles and other writings over the past three decades. Both men write with a simplicity and directness that is more compelling than Mr. Schell's pompous prose.

Lord Zuckerman holds that the nuclear illusion lies in the belief that advances in weapons technology and increases in the number of weapons bring a corresponding increase in military strength. Mr. Kennan writes of the nuclear delusion that causes people not to understand that weapons of mass destruction are useless as rational weapons of war. Amassing more and more of these weapons does not improve a nation's security, they insist; just the opposite.

In arguing that additions to nuclear strength only reduce security, the two distinguished authors take the same position on a conceptual issue at the center of the debate: They favor the theory of mutual assured destruction over flexible response, or, as it is termed in Michael Mandelbaum's *Nuclear Revolution,* "strategic mercantilism."[3] Dr. Mandelbaum is a scholar at Harvard who a few years ago published *The Nuclear Question,* a study of U.S. nuclear policy since 1946. The reader may first wish to review his book, which is analytical; the Zuckerman and Kennan books are works of direct advocacy.

Strategic mercantilism, however, rejects the notion of an absolute level of security. In its purest form, it says nuclear war can be won.

The assured destruction theory holds that once both sides have enough weapons to destroy each other, they do not need any more: There is no addition to security in being able to destroy the adversary more than once. Dr. Mandelbaum says this is analogous to the theory of comparative advantage in international trade. The "optimizing doctrine" applies to both in that there are precise "levels of armaments and trade that will yield the greatest possible security and welfare, respectively."

Mercantilism vs. MADness

Strategic mercantilism, however, rejects the notion of an absolute level of security. In its purest form, it says nuclear war can be won. In its modified form, it holds that asymmetries between the superpowers can result in "significant political consequences even when both sides possess the capacity for the assured destruction of the other." The symbolism attached to nuclear weapons gives them a role as political signals, and gaps in one side's arsenal could be taken as a sign of weakness, particularly in a crisis. Unlike Lord Zuckerman and Mr. Kennan, the strategic mercantilist believes that more weapons can result in more security.

For example, technological improvements, especially in accuracy, have made much more feasible so-called limited strikes against missile silos, command bunkers, and other "hardened counterforce" targets. By destroying the enemy's forces, one can hope to limit damage to oneself. To maintain the integrity of its deterrent, the United States needs to develop a capability comparable to Russia's to make limited strikes; otherwise, the strate-

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gic mercantilist contends, the U.S.S.R. might be tempted to take advantage of its unmatched capability. If the United States can respond to limited strikes only by attacking cities, "soft" military targets (such as airfields), and perhaps a few hardened targets, its deterrent against limited attacks would not be credible. This is because the Soviets could then use their remaining forces—which would survive U.S. retaliation—to strike U.S. cities. Knowing this, the United States might not retaliate against a Soviet limited first strike. The political implications are obvious. The MX missile is defended by strategic mercantilists and opposed by proponents of assured destruction.

Dr. Mandelbaum advocates strategic mercantilism, citing two differences between nuclear and trade theory. First, the material welfare gained from practicing comparative advantage in trade can be accurately measured,

The great problem with mutual assured destruction is the inevitable unpredictability of international politics and war.

but "a strategist cannot validate the case for assured destruction and its implications with comparable precision." Second, the stakes are much higher in national security than in economic welfare. If one is wrong about defense, the price can be the nation itself. As a result, the author writes, "it has generally seemed prudent to err on the side of caution and to risk possessing too many rather than too few nuclear weapons."

Messrs. Zuckerman, Kennan, and Schell make good arguments against Dr. Mandelbaum's first point. The destructive power of nuclear weapons is so great, and the consequences of their use potentially so cataclysmic, that the necessary level of destruction can indeed be measured. The destruction that would result in a limited nuclear war, they warn, is so immense as to make the contemplation of it sheer madness.

To Dr. Mandelbaum's second point, Messrs. Zuckerman, Kennan, and Schell would strenuously argue that acquiring more weapons under the strategic mercantilist doctrine reduces security because it makes war more likely. The idea of using such weapons to limit damage is illusory, in their view, because enough of the enemy's weapons would survive to wreak untold devastation in a counterattack. Moreover, the death and destruction from even a limited strike would be so great that the enemy would likely retaliate against the attacker's population and not only against its surviving forces.

Lord Zuckerman lists three reasons for the impracticality of waging limited nuclear war. First, there is the inherent unpredictability of war—particularly nuclear war, in which destruction would be unprecedented, even with tactical nuclear weapons. Second, whatever the accuracy of nuclear warheads, their secondary effects, such as fallout, would inevitably reach population centers. Strikes against hardened military targets would be at or very close to ground level; such "ground bursts" throw up great amounts of debris into the mushroom cloud, which would return to the surface irradiated. Third, the measurement of missile accuracy, the Circular Error Probable (CEP), tells us the radius within which half the warheads would land; the other half would land outside the circle. Though the outer boundary of their distribution can be predicted with reasonable accuracy, it takes only one errant warhead to devastate a city.[4]

Messrs. Zuckerman and Kennan are also sharply critical of NATO's strategy of first use of nuclear weapons, if necessary, to stop a conventional Soviet attack. They press for increased spending to improve NATO's conventional deterrent. (Interestingly, Mr. Schell, the West European peace demonstrators, and the freeze advocates in this country have little or nothing to say about upgrading conventional forces.)

But Dr. Mandelbaum seems to have the better view on the second point—that the stakes justify possessing more weapons, not fewer. The great problem with mutual assured destruction is the inevitable unpredictability of international politics and war. The concept "is a counsel of restraint, of trust in others to be rational, and of moderation," attributes in which the anarchic international system does not abound.

The decisive point in favor of strategic mercantilism is that the Soviets appear to accept it. If one side believes that fighting nuclear war is important and develops a capability that the other side, believing in assured destruction, lacks, the former will believe it has an edge and may act on this belief—even if it is mistaken. To deter limited nuclear strikes and maintain strategic stability, then, the United States must match the capabilities of the Soviets. Not having enough weapons can be destabilizing; adding to nuclear strength may not bring added security but may avoid a loss of security. The hydrogen bomb, the intercontinental ballistic missile, multiple independently targetable warheads, cruise missiles, antisatellite weapons, and space-based defensive systems have not or most likely will not add to U.S. security (because the Soviets always match us). Nevertheless, they were or probably are necessary to maintain the level of security we have. President Truman made the point by posing this question when he was deciding on development of the hydrogen bomb. He asked, "Can they do it? And if so, how can we not?" The Soviet military buildup in the seventies, which went well beyond the requirements of mutual assured destruction, was largely responsible for the American doubts about assured destruction and the growing adherence to strategic mercantilism in this country.[5]

Second-Guessing the Soviets

Ultimately, the choice between assured destruction and strategic mercantilism rests on this moral judgment: What risks should we take in defense of our values by acquiring new and better nuclear weapons, when the result could be not strengthening deterrence but making war more likely? In answering this question, we have to

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confront our values in the full presence of the nuclear monster. Equally, the choice rests on a political and military judgment as to what forces are needed to deter the other side, and whether newer and better forces will strengthen deterrence or increase the chance of war. This depends largely on one's view of the Soviets, what their aims are, what risks they would run, and what will deter them.

Lord Zuckerman and other authorities would challenge the importance that Dr. Mandelbaum gives to strategic theory. Weapons are not designed to fit theories; it is the other way around. In affixing responsibility for our awful predicament, the finger should be pointed at the technicians: It is their advances in weapons technology that led to the popularity of strategic mercantilism. Military theorists overlook the central problem.[6] Lord Zuckerman calls for a halt to all research and development "designed to elaborate new nuclear warheads and new means of delivery." Unfortunately, he does not tell us how to achieve this in a verifiable agreement with the Soviet Union.

He presses another solution that is more promising—one that Mr. Kennan also advocates: a comprehensive nuclear test ban. This would halt the development of new weapons and lead over time to an erosion of confidence in the reliability of existing weapons. There is a major question, however, whether such a test ban would be verifiable; this can only be resolved by technical judgments.[7]

The disagreement among technical experts means that one has to make moral and political judgments. Lord Zuckerman appears to have no doubts about verification; Mr. Schell undoubtedly would be prepared to run considerable risks. He would agree with Harold MacMillan, who in 1959 urged President Eisenhower to agree to a comprehensive test ban and told him: "We ought to take risks for so great a prize. We might be blessed by future ages as saviours of mankind, or we might be cursed like the man who made *'il gran rifiuto,'* " the great refusal. (Lord Zuckerman dedicates his book to the former prime minister with these words.) Mr. Kennan's mature political judgment is that the Soviets are as desirous of a halt to the nuclear arms race as we are and can be expected to abide by their agreements. Others would counter that if the proponents prove wrong about verification and Soviet compliance, then the Soviets could gain a decisive advantage that would lead to an imbalance, increasing the chance of war. Persuasive evidence of Soviet violation of the treaties banning chemical and biological weapons makes this concern real.

Weapons for Peace

Some would say that Lord Zuckerman gets into these dilemmas because he looks at the problem backward. They ask, "Why do we have military research and development?" Thus, Michael Howard has written that the basis of the nuclear arms race, like that of all arms races, is the challenge to the status quo by one nation that is perceived by another as a threat to its power. Citing the classic naval race between Britain and Germany before the First World War, he writes:

> The naval competition provided a very accurate indication and measurement of political rivalries and tensions, but it did not cause them; nor could it have been abated unless the rivalries themselves had been abandoned.[8]

Dr. Howard argues that weapons are not per se incompatible with peace. Instead, we must look at those states that "have the greatest incentive to disturb the existing order, and the greatest ability to do so." The greater that ability, he states, "and the less the capacity of defenders of the status quo to deter them, the more precarious peace is likely to be."[9] The perplexing, unresolvable problems just discussed concerning verification—indeed, the sorry history of arms control efforts over almost four decades—can only be understood in light of the fierce U.S.-Soviet rivalry.

The bomb has reined in the "bellicism," or cultural disposition toward war, that . . . has contributed to most wars in the past.

Going further, Dr. Howard contends that nuclear weapons have actually contributed to peace. The suicidal consequences of nuclear war have tamed the superpowers and kept in check their competition for power. The bomb has reined in the "bellicism," or cultural disposition toward war, that Dr. Howard contends has contributed to most wars in the past.[10] Dr. Mandelbaum agrees. The nuclear arms race, unlike all previous arms races, "has prevented war" because it is a "positive-sum game." Both the United States and the Soviet Union can acquire and maintain a deterrent capability independently of the other's actions. In contrast, the Anglo-German naval race, for example, was a zero-sum game. If the German High-Seas Fleet had been big enough to win control of the North Sea, it would indeed have been Britain's loss; control of that body of water determined strategic superiority, and Britain could not afford to lose that control. The ability of the United States to preserve its retaliatory capability is not, in this sense, tied to Russia's military development.

Capabilities and Incentives

The risks of building new, more advanced weapons or deciding whether a particular arms control treaty is sufficiently verifiable depend on the intentions of the adversary. And intentions, alas, are the great unknown. In assessing them we have to rely on military capabilities, historical practice, communist ideology, internal conditions (especially economic), leaders' statements, and other indicators. Capabilities are the most reliable because they are concrete and not hidden in the minds of the men inside the Kremlin. Another reason for the stress on capabilities is that even if both sides have the best of

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defensive intentions, confrontations do develop. Misperception and error inevitably play their parts. The prudent defense planner always tends to make a conservative judgment about intentions after reviewing all the indicators. It is this prudence that Messrs. Zuckerman, Kennan, and Schell vociferously criticize because in their view it spurs the accumulation of nuclear armaments and brings closer the day of annihilation.

Mr. Kennan, not surprisingly, has the most to say about the history, ideology, and internal conditions of Russia. He adheres basically to a defensive view of Soviet policy, but his weakness lies in his failure to discuss, except in passing, Soviet military developments.

Soviet capabilities are the subject of David Holloway, a leading authority on Soviet military power, and Robert Berman and John Baker. Two examples highlight the problem. The heart of Soviet strategic power is the approximately 640 SS-18 and SS-19 missiles, whose immense throw-weight (the SS-18's is more than eight times the U.S. Minuteman ICBM's, and the SS-19's is about three and a half times) and improved accuracy make them the source of the well-known window of vulnerability. On the surface, one might conclude that these giant missiles were designed to give the Soviets a first-strike capability against the United States, since heavy throw-weight permits bigger warheads and more MIRVs. They are much bigger than necessary for the optimum level of damage posited by assured destruction doctrine. Mr. Holloway believes the SS-18 was designed for the express purpose of having a huge throw-weight and is not merely a reflection of technological backwardness (less advanced, heavy warheads and guidance systems necessitate greater throw-weight). Messrs. Berman and Baker agree that the SS-18 was intended mainly for targeting U.S. ICBM silos.

. . . the Soviets fully recognize the horrors . . . But their military doctrine seems to hold that if war should occur, they ought to try to win.

However, Mr. Holloway minimizes the window of vulnerability thesis, in part by noting that the Soviet missiles would have to function with the same accuracy as on their test flights. This is doubtful, he argues, because they would be flying over the North Pole, where, the Soviet planners would have to recognize, there could be different geodetic effects than those found on the missiles' west-east test-flight paths. Lord Zuckerman also makes this point in criticizing strategic mercantilism. Both are in error, though, because they fail to note that the two countries have measured these effects with satellites over the North Pole.

Another Soviet strategic development that has prompted considerable debate in the United States is the "cold-launch" capability of the SS-17 and SS-18: The missile engine's ignition is held until after the missile is propelled out of the silo, and the silo can then be refurbished and used to launch another missile. The SALT I and II treaties limit launchers (such as silos and submarine missile tubes), not missiles. Thus, Soviet cold-launch capability has stirred fears that it could be a subterfuge to circumvent the treaties. (The MX would be the first U.S. ICBM that could be cold-launched.) Messrs. Berman and Baker note that "serious debate exists over the USSR's ability to reload silos rapidly (within 24 hours) and over whether it has stockpiled ICBM's for the reload mission."[11]

Clearly, these capabilities—and others that are recounted by Messrs. Holloway, Berman, and Baker in crisp, highly informative surveys of the subject—are very disturbing indeed. Do published accounts of Soviet intentions tend to confirm or qualify the apparent offensive posture of Soviet forces? Mr. Holloway gives a good summary of Soviet nuclear doctrine. As doubts about détente grew in the mid-1970s, some observers said the Soviets believed in the feasibility of fighting and winning a nuclear war.[12] However, the general consensus today, as Mr. Holloway writes, is that the Soviets fully recognize the unprecedented horrors of nuclear war and regard it as a disaster for mankind. But their military doctrine seems to hold that if war should occur, they ought to try to win. The United States has been said to believe in deterrence by threat of intolerable damage if war should break out; the Soviets have been said to favor deterrence by denial (that is, ensuring the enemy's defeat).[13] This general overview should be qualified by noting that U.S. doctrine has been moving in the Soviets' direction in the past ten years, and that Soviet doctrine may be moving toward the U.S. viewpoint.[14]

Self-Delusion

The newly aroused public attention to the nuclear predicament is beneficial only if its moral concern is accompanied by study and understanding of the underlying political, military, and moral issues; otherwise, moral concern flounders in ignorance and leads to consequences of the greatest immorality, and hope falls victim to self-delusion and fear. It may be revulsion against war, rather than nuclear weapons, that is the greater threat to peace, for

> . . . if that revulsion is not evenly spread, societies which continue to see armed force as an acceptable means for attaining their political ends are likely to establish a dominance over those who do not. Indeed they will not necessarily have to fight for it.[15]

We ponder the choice of resolve in seeking survival through strength or, with Mr. Schell, accommodation in "seeking survival by banning the instruments of death." In searching for the answer, these six books are a good place to start.

Spencer Warren

SPENCER WARREN, *a lawyer with a degree in international affairs, is the deputy director of the House Republican Research Committee.*

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HERMAN KAHN, 1922–1983
Physicist, Strategist, Visionary, Patriot

The death of Herman Kahn leaves the numerous spheres on which he left his mark with a deep sense of loss. We at *Policy Review* feel a particular sadness. As a contributor and a member of our editorial board, he assisted us generously and unstintingly. We mourn him.

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Accelerating into 1984

David Ranson

The Federal Reserve is often said to be walking a tightrope. If its stance is too "tight," the economy will decline or fail to grow. If it is too "loose," inflation will pick up again, and past austerity will have been endured for naught. (I place the terms in quotation marks because the concept of tightness is itself loose.) This thinking encourages the image of an economy that witlessly responds to every nudge by an all-powerful government agency charged with providing backbone and leadership. Ironically, the tightrope idea is promoted by those who argue that the state has little power to do good and that initiative, enterprise, and responsibility reside in the private sector.

Incentivists reject the tightrope analogy as a manifestation of the old Phillips curve wisdom—the thesis that we must at each step choose between increasing unemployment and increasing inflation. Far from alternatives, unemployment and inflation are seen as compatible symptoms of instability. They appear to be alternatives only because they tend to fluctuate out of phase with each other in an unstable economy. Increasing attempts by the state to control the economy have been rewarded in recent years by greater instability in both prices and employment. According to the incentivist view, the choice is between stability and instability. Letting interest rates rise would be an admission of defeat in the war against instability.

Using financial market prices as a forecasting instrument, I expect the coming year and a half to be a period of extraordinary growth—perhaps as much as 8 percent in 1984, to use the figure my firm, H. C. Wainwright, is publishing at midyear. This estimate, which would make next year the fastest-growth calendar year since the Korean War, is based in part on what futures markets have been saying about the path of interest rates during the second half of 1983 and into 1984. A change in interest rates (both spot and futures) would alter this market forecast in a way we can readily calculate.

Bad news carried by financial markets about the future can make it profitable to switch some economic activity from the future into the present.

The surprise lies in the size and direction of alteration. The 1984 growth rate would be insensitive to a rise in interest rates during the third quarter of 1983. It is 1985's growth that would feel the damage. Moreover, if the interest rate increase were to be delayed until the fourth quarter or later, growth in 1984 would be *faster* than if no interest rate increase took place. The source of this paradox, which I have described in earlier columns, is a tendency for the economy to "make hay while the sun shines." Bad news carried by financial markets about the future can make it profitable to switch some economic activity from the future into the present.

By contrast, most forecasts for 1984 see real GNP growth between 4 and 5 percent—much better than in recent years, but far from a record. For example, the administration in June raised its estimate from 4.3 percent to a figure variously reported at 4.8 or 5.2 percent.

How can the reader have confidence in what I characterize as the financial markets' high estimate for 1984? Certainly not by my detailing the algebra of the calculation, for mathematics can be used to clothe the most tortured of skeletons respectably. But the markets' track record during the past few tempestuous years compels examination. One of the most stringent tests is to study the markets' forecast just prior to two of the most sudden and drastic economic downturns we have seen: the recessions of 1974 and 1982.

In 1982 real gross national product dropped 1.7 percent relative to 1981. The earliest forecasts I have seen were released in early April 1981. They ranged from +2.5 percent (Wharton Econometric Forecasting Associates) to +4.9 percent (UCLA and Evans Economics). The estimates of Data Resources and Chase Econometric Associates lay in between. The market forecast published on the basis of the Wainwright method was 1.4 percent: 3 percentage points from the mark but nearer than the others. In June the big models gave much the same reading: Wharton had raised its estimate to 2.6 percent, and Evans Economics was up to 5 percent. The market forecast had already changed drastically, reflecting large shifts in financial market prices that occurred during the month of May. The new estimate at midyear was *minus* 2.1 percent.

From this point on, most forecasters repeatedly moved their esti-

DAVID RANSON *is a partner of the Boston-based H. C. Wainwright & Company Economics.*

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mates down, but the market forecast fluctuated within half a point or so on either side of −2 percent. The consensus of forty-odd forecasters polled by *Blue Chip Economic Indicators,* which had stood at 3.5 percent in June, was at 2.2 percent in November and 0.3 percent in January. Even at the end of the first quarter of 1982, most forecasters saw only half the downturn that actually occurred. It was not until the last estimate in December that the *Blue Chip* consensus reached its low (and accurate) reading of −1.7 percent.

The comparison for 1974 is equally telling. Real GNP is now known to have dropped 0.6 percent, although preliminary figures at the time (using a slightly different way of calculating GNP) suggested a larger decline. It is a little more difficult to compare the Wainwright approach for this period because it was not in use then. But it is possible to simulate what the market forecast would have been, given the information on GNP and financial market prices that would have been available.

At the beginning of 1973 the market forecast stood at 2.2 percent. By midyear the figure had slipped to 0.4 percent, although two months later a survey of forecasts published by the American Statistical Association gave an average of 2.6 percent. By the end of September 1973 the market forecast had slipped again to −0.5 percent, a figure around which it fluctuated narrowly for a year. As late as February 1974 another survey published by the Federal Reserve Bank of Richmond gave an average of +1.2 percent. Finally, in June the American Statistical Association figure had reached −0.3 percent, within striking distance of the final result.

For both recessions the pattern was much the same. Month by month, deteriorating economic performance was extrapolated by the forecasters to give ever more pessimistic estimates for the year to come. No clear signal of recession was obtainable from the bulk of these models; indeed, the signal was constantly shifting. For both years, in contrast, financial market prices gave a clear signal of an impending downturn (as well as a reasonably accurate estimate of magnitude) in the summer or fall of the preceding year.

If the market forecast outlook for 1983–84 is accurate, the Fed will confront a dilemma. Extraordinary growth in the economy means equally extraordinary growth in the demand for money and—as the credit markets respond—in the money supply. Already at or near the tops of their target ranges, the monetary aggregates would surge ahead further, forcing the Fed to act or lose face. To the extent that history repeats itself, a decision to let interest rates rise by a couple of hundred basis points would be in the cards sooner or later, and perhaps even more as growth continues at a fast pace through 1984.

The timing is almost impossible to predict. Several factors suggest delay: the supposed vulnerability of the recovery, the fragility of the Third World debt bailout, the scarcity of hard evidence that inflation is going to resurge. But a relatively early decision is favored by the fact that Paul Volcker is beginning a second honeymoon as chairman of the Fed. If he is to do something that will make him unpopular, let it be now. Furthermore, if such nasty medicine will eventually cure the patient, he has incentive to dole it out soon so that the benefits are seen before his new term expires. The money-supply watchers on his staff, and most monetarist economists outside, would applaud.

Signals from the Reagan administration so far can be taken as reluctant encouragement. On June 6, Mr. Reagan's chief economic adviser, Martin Feldstein, was more explicit than usual. He described "the rapid recent growth of M1 [currency and checkable accounts]" as "a cause of serious concern." The money supply, he said, "must not be allowed to go on expanding at its recent pace."

Mr. Feldstein's present posture may reflect a calculation about timing similar to Mr. Volcker's. He may hope that a sufficiently early curb on money-supply growth will have its effects soon enough to permit the economy to resume growth in 1984 in time for the election. A delayed decision, on the other hand, might cause a slump exactly at the wrong moment. Actually, such calculations are based more on belief than on fact. The historical pattern is a substantial delay—between one and two years—before the adverse output effects of an interest-rate increase take hold.

My analysis of the choices facing the Fed is very different because it comes from completely different premises about the source and control of inflation. If inflation derives exclusively from debasement of the currency, then higher interest rates do nothing to mitigate it.

The interest rate is a manifestation of the price of dollars to be delivered in the future. If you think about it, a rise in interest rates is just an additional debasement—in this case, of the future value of the dollar in terms of dollars today. I cannot see how any policy instrument that the U.S. government is at present willing to use would alleviate inflation in anything more than a superficial and temporary way. Only an instrument that policy makers have ruled out of bounds, a peg between the dollar and the commodity markets, can stop further declines in the market value of a currency that, like all fiat currencies, is intrinsically worthless.

An incentivist would advise the Fed this way:

- The apparent dilemma results from a misperception of the origins of inflation.
- The quantity of money is not within the power of the Fed to control.
- Growth in the money supply is chiefly a consequence of economic change, not a cause, and can safely be allowed to fluctuate unhindered.
- Interest rates should be kept stable at the lowest levels within reach.
- The Fed's proper role, if any, is to accommodate (not restrict or fine-tune) the needs of the economy for credit and liquidity.
- Only currency reform on a commodity standard will permanently halt inflation.

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